

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1078

To Be Argued By:

15 Minutes

PETER J. FABRICANT

B
P/S

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 76-1078

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
JEROME DANIELS,
Defendant-Appellant.

APPENDIX

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Appellant
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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 76-1078

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
-against-
JEROME DANIELS,
Defendant-Appellant

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

Docket No. 76-1078

JEROME DANIELS,

Defendant-Appellant.

-----X

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3

4 -----X
5 UNITED STATES OF AMERICA, :

6 Plaintiff, :

7 -against- :

74-CR-787

8 JEROME BRUNELLS, :

9 Defendant. :
10 -----X
11

12 United States Courthouse
13 Brooklyn, New York
14 September 22, 1975
15

16 Before :

17 HONORABLE HENRY BRAMMELL, U.S.D.J.
18
19

20 Plea
21
22

23
24 EMANUEL KARR
25 OFFICIAL COURT REPORTER

1 Appointments:

2 DAVID G. TRAGER, ESQ.
3 United States Attorney
4 for the Eastern District of New York

5 BY: DAVID J. FITCHIE, ESQ.
6 Special Attorney
7 Task Force

8 KASNER & DETSKY, ESQs.
9 Attorneys for the Defendant

10 BY: PAUL E. WAPBURGH, ESQ.
11 Of Counsel

12 Also Listed:

13 BARNET DANIELS, ESQ.
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1 THE COURT: United States of America versus
2 James Farwell, plea.

3 MR. TALLENTS: Your Honor, there is going to
4 be the withdrawal of the plea of not guilty and a
5 plea of guilty to one count of the indictment by
6 James Farwell.

7 Your Honor, because of certain statements that
8 are going to be made a part of the plea and because
9 of certain agreements which have been made by the
10 Government, the defendant requests that the plea be
11 taken outside the presence of everybody except the
12 Court.

13 THE COURT: You want me to take it in chambers?

14 MR. BISHOP: What do you have to say about
15 that?

16 MR. BISHOP: I have no objection to that,
17 Your Honor.

18 THE COURT: Do you agree to it?

19 MR. BISHOP: Yes.

20 THE COURT: All right.

21 We will take it in chambers.

22 (The proceedings were then adjourned to the
23 chambers of Judge Brantwell.)

24 THE COURT: I want your appearances first.

25 MR. TALLENTS: For the defendant Jerome

Daniels, Esq. 123 West 42nd Street.

Before we begin, your Honor, I would like to introduce to the Court Mr. Barnett Daniels, a member of the bar of the State of New York and presently in Florida.

Your Honor, for purposes of this case I would have his admission as another attorney representing Mr. Daniels.

THE COURT: Well, does he intend to participate, is that right?

MR. WARBURGH: He is a consultant and has been consulted with in this case, he is also an attorney, while he is not the attorney of record I ask that his presence be noted on the record as an attorney, admitted attorney.

THE COURT: I would admit him for the purpose of this case, he may consult with you and work with you.

Are you the attorney of record for this case?
MR. WARBURGH: Yes.

THE COURT: Then there can be no other.

MR. WARBURGH: All right, more or less as co-counsel.

THE COURT: He may work with you as co-counsel

1 for this case.

2 You are going to handle the case completely,
3 aren't you?

4 MR. HARRBURGH: Yes.

5 He may make some statement on the record if
6 any problem arises, that is why.

7 THE COURT: He can address that to you, then
8 you can make it for the record, as long as you are
9 the person who will be fully responsible.

10 MR. HARRBURGH: Can his name appear on the
11 record as being present?

12 THE COURT: It must, I want it on the record.

13 Who else is present?

14 MR. HARRBURGH: The defendant Jerome Daniels
15 and his wife, Mrs. Daniels.

16 THE COURT: Good morning.

17 You may sit down, everybody can sit down.

18 What will the defendant do this morning,
19 counsel?

20 MR. HARRBURGH: There is going to be the
21 withdrawal of the plea of not guilty and the entry
22 of a plea of guilty to Count 3 of the indictment.

23 I formally move at this point for permission
24 for the defendant to withdraw his previously entered
25 plea of not guilty to the indictment and to offer to

1 pled guilty to Count 3 of the indictment.

2 THE COURT: All right.

3 Now what is your full name?

4 THE DEFENDANT: Jerome Daniels.

5 THE COURT: And how old are you?

6 THE DEFENDANT: 41.

7 THE COURT: Is this your attorney on your left,
8 sitting next to you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You also have the other attorney
11 in Court for purposes of this matter?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, Mr. Daniels, have you been
14 advised and do you understand that if you want to
15 go to trial you have the right to a speedy and public
16 trial by a jury, with the assistance of counsel?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You have the right to compulsory
19 process to obtain witnesses in your behalf?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You have the right to be confronted
22 by witnesses against you; do you know that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that you have the
25 right to plead not guilty and persist in your plea of

1 not guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You understand that if you went to
4 trial the Government has the obligation of proving
5 your guilt beyond a reasonable doubt, and that if they
6 failed, the jury would have the duty to acquit you;
7 do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand if the plea is
10 accepted by me, you would be waiving your constitutional
11 rights and your right to a trial?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that you will
14 have the assistance of counsel at the time sentence
15 is imposed, if your plea is accepted?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right.

18 Count 3 of the indictment reads:

19 On or about the 13th day of June, 1974 -- and
20 put it before him so he can follow it, too --
21 continuing up to the date of the filing of this
22 indictment, within the Eastern District of New York
23 and elsewhere, Jerome Daniels, also known as George
24 Goldberg and Fat George, and Jerry Philip Kaplowitz,
25 unlawfully and knowingly did directly and indirectly

1 give, offer and promise money and other things of
2 value to Frank Prattolillo and John Matia, officers
3 and employees of the United States Department of the
4 Treasury, that is special agents of the Internal
5 Revenue Service, for and because of official acts
6 performed by the said Frank Prattolillo and John
7 Matia otherwise and is provided by law for the proper
8 discharge of their official duties as special agents,
9 to all intervening and suppressing the criminal
10 investigation by the Internal Revenue Service of the
11 income taxes of Jerome Daniels due and owing to the
12 United States.

13 This is in violation of Title 18, United States
14 Code, Section 201(f) and 2.

15 Will you tell the Court in your own words
16 what it is that you did that brings this charge before
17 the Court?

18 MR. WARBURG: Mr. Daniels, do you want me to
19 ask you questions or will you --

20 THE COURT: Let him tell me, I had rather that
21 he tell me.

22 MR. WARBURG: All right, all right.

23 Will you state in narrative form --

24 THE DEFENDANT: Well, I never met Mr. John
25 Matia at any time, your Honor, I would like that on

1 the record. Mr. Kaplowitz I had known for 30 years
2 and he convinced me that he knew some special agents
3 that could change a criminal investigation into a
4 civil investigation. Mr. Kaplowitz called me --

5 THE COURT: That is Philip Kaplowitz?

6 THE DEFENDANT: Philip Kaplowitz.

7 THE COURT: Yes.

8 THE DEFENDANT: And after four or five phone
9 calls he convinced me to meet with these -- with,
10 with Mr. Frattolillo in a restaurant in the Bronx
11 at which time Mr. Kaplowitz had already discussed
12 the giving of money to the agents.

13 I was under psychiatric care, your Honor, and
14 still on taking drugs, and I agreed with Mr. Kaplowitz
15 that I would give the money.

16 THE COURT: For what purpose was the money
17 given?

18 THE DEFENDANT: To change the criminal
19 investigation, which is only an investigation, not
20 a charge, but it was frightening me and I agreed to
21 give money to the agents to do that.

22 After the meeting I got scared again and
23 told Mr. Kaplowitz I didn't want to do that.

24 THE COURT: This was after he had gone to
25 the agents and spoken with them?

1 THE DEFENDANT: I did meet the agent.

2 THE COURT: After you met this Frank
3 Fratellillo?

4 THE DEFENDANT: After I had met Frank
5 Fratellillo, I said, I said I didn't want to go
6 through with it anymore. I was frightened, I was
7 frightened, I knew it was wrong. My father was a
8 lawyer and I knew it was wrong.

9 He called me several times and he advised me
10 several times and he convinced me that I had made a
11 deal and I would be in worse trouble if I didn't
12 go into the deal. He then laid out his money, which
13 he did to the agent and which he did without my
14 permission and I subsequently gave him back the money
15 and continued on --

16 THE COURT: He gave the money without your
17 consent, but you gave him back the money?

18 THE DEFENDANT: Yes, back.

19 THE COURT: You gave him your money to replace
20 it?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: This was after he had given the
23 money to the agents?

24 THE DEFENDANT: He gave them the money without
25 my permission, your Honor.

1 THE COURT: When did that happen, approximately

2
3 THE DEFENDANT: About two weeks after the
4 first meeting.

5 THE COURT: When was the first meeting?

6 THE DEFENDANT: Sometime in June of '74, that
7 was the first and only time I met with the agents,
8 I never met with them subsequently, I was afraid to
9 go to the meetings.

10 THE COURT: Now did you actually do what you
11 are charged with in Count 2 of the indictment?

12 THE DEFENDANT: Yes, I did give him back, I
13 did give him back the money to give to the agents.

14 THE COURT: You knew he had given the money to
15 the agents, is that it?

16 THE DEFENDANT: Yes.

17 THE COURT: And you gave him the money to
18 deliver that money?

19 THE DEFENDANT: Yes, I did, your Honor, but
20 I was in a very nervous and confused state.

21 MR. WATKINS: May I, your Honor, may I ask
22 one question?

23 THE COURT: Surely.

24 MR. WATKINS: Mr. Daniels, did you give any
25 additional money to Mr. Karpovitz for the purpose

1 of giving to the agents?

2 THE DEFENDANT: Yes, I did.

3 MR. WARBURGH: How much of that money, in total?

4 THE DEFENDANT: \$14,000.

5 MR. WARBURGH: That was for the purpose of
6 changing the criminal investigation into a civil
7 investigation?

8 THE DEFENDANT: That is correct.

9 MR. WARBURGH: All right.

10 THE COURT: Did you actually do what you are
11 charged with doing, Mr. Daniels?

12 THE DEFENDANT: Yes, your honor.

13 THE COURT: Did you do it knowingly and
14 wilfully?

15 THE DEFENDANT: Well, I didn't do it wilfully.

16 THE COURT: Did someone, coerce you into doing
17 it?

18 THE DEFENDANT: Mr. Kaplowitz convinced me to
19 do it.

20 THE COURT: But did you do it knowingly?

21 THE DEFENDANT: Yes, your honor.

22 THE COURT: And you say you did not do it
23 wilfully?

24 THE DEFENDANT: Well, he was convincing me and
25 at all times I was very hesitant about doing it.

1 THE COURT: Did Mr. Daniels ever do anything
2 to force you to do this?

3 THE DEFENDANT: No, he told me I could get
4 into trouble because he made a deal and that he was
5 having a business arrangement with them and he was
6 going to have a continuing business arrangement with
7 them.

8 MR. BARNET DANIELS: May I, your Honor, may I
9 ask one question of Mr. Daniels -- can we present
10 these letters to your Honor from the doctors that
11 would show his state of mind then and possibly now?

12 THE COURT: Well, are you saying his state of
13 mind was such that he didn't know what he was doing
14 at that time?

15 MR. BARNET DANIELS: I would like your Honor
16 to --

17 THE COURT: I am asking you.

18 MR. BARNET DANIELS: I think there is a good
19 chance of it, sir.

20 THE COURT: Well, why do you say that?

21 MR. BARNET DANIELS: I have read the letters.

22 THE COURT: And you say at that time he was
23 in no state of mind to have done what he did?

24 MR. BARNET DANIELS: I think there is a good
25 chance that he was acting incompetent, I'm not a

1 doctor --

2 THE COURT: Does the doctor say that he was
3 incompetent at that time?

4 MR. BARNET DANIELS: These letters go further
5 than that.

6 THE COURT: I will ask Mr. Warburgh was he
7 competent then and is he competent now to do what he
8 was doing then and now.

9 MR. WARBURGH: It is my opinion I'm talking
10 at great length and a number of times that these
11 payments were made voluntarily by Mr. Daniels. He
12 was under some type of psychological stress and had
13 been so for some time but I don't think that affected
14 his competency and I do think, believe that he made
15 these payments voluntarily and knowingly.

16 THE COURT: Is he under any psychological
17 stress at the present time?

18 MR. WARBURGH: He is under the care, under
19 the care of, I believe, two psychiatrists at the
20 present time and has been so for a number of years.

21 I would hesitate to render a diagnosis of
22 what actually his problem is, but he functions in
23 our day to day world, and that is all I can really
24 say. In my opinion he is competent.

25 THE COURT: Do you feel that he today does not

1 understand what is happening, later?

2 MR. WARBURGH: No, he understands quite well
3 what is going on.

4 THE COURT: Do you feel he does?

5 MR. BARNET DANIELS: I think today he does.

6 THE COURT: And you said before that he didn't
7 understand when he did this, is that what you are
8 saying?

9 MR. BARNET DANIELS: I could certainly say he
10 was confused and eminently reasonable and persuadable
11 by a man whom he trusted.

12 THE COURT: Well, the thing is did he know
13 what he was doing, he said he did, he said he knew
14 what he was doing, but now you are telling me he
15 didn't know what he was doing.

16 MR. BARNET DANIELS: He is my brother and --

17 THE COURT: He said he knew.

18 MR. BARNET DANIELS: I may be, I may be
19 prejudiced.

20 I think these letters would indicate that at
21 the time -- well, at least there were mitigating
22 circumstances with his mental health.

23 MR. WARBURGH: It may be true there may have
24 been some mitigating circumstances but I think that
25 would be directed towards the Court's decision as to

1 what punishment to impose, I will leave.

2
3 THE COURT: It would be in mitigation of what
4 he did, whatever his understanding was or whatever
5 his competency was at the time. It could be in
6 mitigation, but he says he is not doing it.

7 You are saying he is not doing it.

8 THE COURT: I think I would like to suggest
9 suggest, that you ask the witness to come in
10 would, and determine for yourself, and I would suggest
11 this as a mitigating factor.

12 MR. WARBURTON: Your Honor.

13 THE COURT: I would think it best to have
14 you are saying, that you ask the witness to come in
15 he testify as to whether the defendant knew at that
16 time, I would rather you did that.

17 MR. WARBURTON: Well, your Honor, that would
18 more or less be in the way of a decision if there were
19 a trial of this, of the issues in this case.

20 THE COURT: That is what I would think it would
21 be, and that is the way of putting it in.

22 MR. WARBURTON: Well, I would like to
23 step outside with Mr. Daniels and with Mr. Ernest
24 Daniels and maybe I can straighten this out.

25 MR. ERNEST DANIELS: Yes, your Honor.
I am clarifying my meaning, but I don't think he was

1 insured at the time, I think he was under stress at
2 the time, and I don't mean for this to be --

3 THE COURT: Do you mean to say that in any way
4 you feel he was mentally incompetent at that time?

5 MR. BARNETT DANIELS: He was under tremendous mental
6 stress, he was not -- I think he knew the difference
7 between right and wrong.

8 THE COURT: That is what the Court has to
9 determine. Thank you.

10 MR. BARNETT DANIELS: Yes, sir.

11 THE COURT: Mr. Daniels, have any promises of
12 any kind, including any promise or suggestions as to
13 what sentence will be imposed, been made to you by
14 the United States Attorney, your lawyer, this Court
15 or anyone else to induce a plea of guilty?

16 MR. WARBURGH: No promises pertaining to any
17 sentence, there were certain representations and
18 agreements that were entered into on behalf of
19 Mr. Daniels and the Government.

20 THE COURT: Cited in the letter?

21 MR. WARBURGH: Yes, it is.

22 THE COURT: Let us see the letter.

23 MR. PITCHER: Your Honor, rather than have the
24 letter incorporated into the file, which we don't want
25 to do because of certain --

1 THE COURT: Well as I understand what does it
2 involve, does it involve cooperation by this
3 defendant?

4 MR. FITCHIE: It does, your Honor.

5 I think Mr. Warburgh with a copy of the letter
6 available right in front of him could better set
7 forth the understanding.

8 MR. WARBURGH: Possibly I can make this
9 suggestion, the Court could read the letter, make it
10 as an exhibit, and seal the exhibit and the transcript
11 of this plea so it could not be opened unless there
12 was an order of the Court that would insure the
13 secrecy of the exhibit and also the transcript.

14 MR. RITCHIE: I have no objection to that,
15 your Honor.

16 THE COURT: Well, if we are going to seal the
17 record, I think then perhaps we can mark it in
18 evidence with this plea and seal a copy with the
19 record of this particular plea.

20 MR. RITCHIE: Fine, I have no objection.

21 THE COURT: Is that all right?

22 MR. WARBURGH: That is satisfactory.

23 THE COURT: Mark it in evidence for the plea,
24 it is a three-page letter.

25 MR. WARBURGH: Yes, it is a response by the

1 Government agreeing to the terms.

2 THE CLERK: You want this with it, too?

3 MR. WARBURGH: Yes.

4 THE COURT: The whole thing.

5 What I will do is the Court will seal the
6 letter separately, maintain the letter separately.

7 MR. WARBURGH: Right.

8 THE COURT: Rather than mark a part of this
9 record.

10 The Court will seal the letter separately.

11 The letter is the letter of Philip E. Warburgh.

12 MR. WARBURGH: Paul E. Warburgh, to send to
13 David Ritchie, a special assistant United States
14 attorney, and it is set forth in three pages, it is
15 a detailed consideration concerning this defendant
16 and his position with the Government in connection
17 with the case against him, which is before the Court
18 now.

19 The letter is dated May 14, 1975.

20 THE COURT: The Court will obtain and keep
21 for the Court records a copy of this letter, together
22 with the response of David J. Ritchie, special
23 attorney, dated June 4, 1975, and it sets forth --
24 well, it states:

25 "This is to state my agreement as an attorney

1 for the United States to the conditions set forth in
2 your letter of May 11, 1975, copy of which is
3 attached hereto."

4 Mr. Daniels, have you seen and read this
5 letter?

6 THE DEFENDANT: Yes, Sir.

7 THE COURT: Are you aware of the contents?

8 THE DEFENDANT: Yes, your Honor.

9 I do want to say one other thing, your Honor,
10 realizing --

11 MR. WARBURGH: What are you going to say, say
12 it to me.

13 THE DEFENDANT: That I have cooperated with
14 the Government knowing that I did wrong and I have
15 fully and completely cooperated with the Government.

16 THE COURT: All right.

17 Aside from the conditions set forth in the
18 letter, are there any other promises made?

19 MR. WARBURGH: None whatsoever.

20 THE DEFENDANT: No, Sir.

21 THE COURT: Mr. Ritchie?

22 MR. RITCHIE: No, your Honor.

23 THE COURT: Except to dismiss the other
24 counts of the indictment?

25 MR. RITCHIE: I believe we have that set forth

1 in the letter.

2 THE COURT: You have that set forth in the
3 letter.

4 Thank you.

5 All right.

6 Now, Mr. Daniels, has your lawyer expressed
7 any opinion or made any prediction as to the sentence
8 the Court will impose?

9 THE DEFENDANT: No, sir.

10 THE COURT: Have you been threatened or
11 coerced by anyone into entering a plea of guilty?

12 THE DEFENDANT: No, your honor.

13 THE COURT: Are you entering the plea of
14 guilty voluntarily, of your own free will because
15 you are guilty and for no other reason?

16 THE DEFENDANT: Yes, your honor.

17 THE COURT: Have you discussed your plea of
18 guilty fully with your attorney?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Did you personally enter into any
21 discussions with the United States Attorney?

22 THE DEFENDANT: Yes, your honor.

23 THE COURT: You personally, did you personally
24 enter into any discussion with the United States
25 Attorney, personally?

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MR. VAREBURGH: I believe he was present on one occasion when we had a meeting.

THE COURT: All right.

Did the United States Attorney make any provision or stipulation with you that told to you by your attorney or otherwise in the latter which is before the court?

MR. VAREBURGH: Yes, your Honor. I believe that the United States Attorney made a stipulation with me that I would not plead guilty to either of the charges or both?

THE DEFENDANT: Yes, your Honor.

THE COURT: Now, I am going to ask you to your understanding of right, and to the charge against you and the consequences of your plea, how to you plead as to Count 2 of the indictment?

THE DEFENDANT: Guilty, your Honor.

THE COURT: Anything further, Mr. Hitchie?

MR. VAREBURGH: Your Honor, just on the question of venue, as your Honor has already been apprised it was --

THE COURT: There has been discussion on this matter.

MR. VAREBURGH: Yes, your Honor, and I think it was set forth that Mr. Republic had met with Mr. Franchillo and that they were on the ground

1 Restaurant in Great Neck, New York, which is in the
2 Eastern District of New York on other occasions and
3 in fulfillment of this plan.

4 THE COURT: Did you know about these meetings
5 at the Old Homestead?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: You didn't know about any of them?

8 THE DEFENDANT: Some of them.

9 THE COURT: Some of them you did know about,
10 some of them?

11 THE DEFENDANT: Some.

12 THE COURT: Did you know that Philip Kaplowitz
13 met with Frank Prattohillis at the Old Homestead
14 Restaurant?

15 THE DEFENDANT: The first time he met him, no,
16 your Honor.

17 THE COURT: Did you know the second time?

18 THE DEFENDANT: The second time I met him.

19 THE COURT: Where did you meet him?

20 THE DEFENDANT: In the Bronx.

21 THE COURT: Did you know of any other meetings
22 at the Old Homestead, I said?

23 THE DEFENDANT: I didn't know exactly where
24 Mr. Kaplowitz was meeting him.

25 THE COURT: Did you know where he was meeting

1 him?

2 THE DEFENDANT: Where?

3 THE COURT: Yes.

4 THE DEFENDANT: No, I didn't.

5 THE COURT: You didn't know anything about him
6 at all?

7 THE DEFENDANT: I didn't know where he was
8 meeting.

9 THE COURT: You didn't know anything about the
10 meetings?

11 THE DEFENDANT: He was arranging these meetings
12 himself.

13 THE COURT: I see.

14 MR. WARBURGH: Did you find out later that he
15 met at the Old Homestead in Great Neck?

16 THE DEFENDANT: Yes, yes.

17 THE COURT: Anything further?

18 MR. RITCHIE: No, your Honor.

19 THE COURT: All right.

20 The Court finds there is a factual basis for
21 the plea and accepts the plea of guilty to Count 3
22 of the indictment.

23 The Court orders a presentence report and
24 sentencing can be at such time as the presentence
25 report is prepared.

1 On bail anything?

2 MR. RITCHIE: I ask that bail be continued.
3 It is presently set at \$50,000 surety bond.

4 THE COURT: Bail continued.

5 MR. WARBURGH: Thank you very much.

6 THE COURT: Thank you.

7 MR. RITCHIE: Thank you.

8 * * *

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA, :

5 Plaintiff, :

6 -against- :

74-CR-787

7 JEROME DANIELS, :

8 Defendant. :

9 -----X
10
11 United States Courthouse
12 Brooklyn, New York

13 December 9, 1975
14 10:00 o'clock
15

16 B e f o r e :

17 HONORABLE HENRY PRATWEIL, U.S.D.J.
18
19

20
21 Sentencing
22

23
24 MICHAEL PICOZZI
25 OFFICIAL COURT REPORTER

Appearances:

DAVID G. TRAGER, ESO.
United States Attorney
for the Eastern District of New York

BY: DAVID J. RITCHIE, ESO.
Assistant United States Attorney

PAUL WARBURGH, ESO.
Attorney for the Defendant

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THE CLERK: For sentence, the United States of America against Jerome Daniels.

MR. WARBURGH: Good morning, your Honor. I have a request at this time that this sentence be conducted in private because of the nature of the statements I am going to make.

THE COURT: I don't know that I can do that. Is there any statements you want at side bar? I will permit that. But I don't think I can do what you want.

MR. WARBURGH: With the consent of the defendant, it's been done before.

THE COURT: This is a public situation. I don't think I have a right. I don't see how I can take a sentence in chambers.

MR. RITCHIE: The Government would have no opposition to an in camera sentencing.

THE COURT: If there is anything you want to put on at side bar I will permit it.

MR. WARBURGH: Possibly the entire sentence might be at side bar.

THE COURT: I am not going to do that.

MR. WARBURGH: Can I explain at side bar?

THE COURT: You can explain at side bar. That I will permit you to do, but the sentence has to be

1 here in this Court.

2 MR. WARBURCH: Could I make a suggestion that
3 possibly those people not concerned with the people --

4 THE COURT: I am not going to exclude anyone.
5 This is a public courtroom. I am going to do
6 that I might as well take it in chambers. I am not
7 going to ask anybody to leave. I don't see any reason
8 and I won't do it.

9 Tell me what you want to do.

10 MR. WARBURCH: Your Honor, we will have to
11 proceed partially in open court and partially at
12 side bar.

13 THE COURT: This is no different from any other
14 sentence. I have to do them every day and I do them
15 all the same way. I see no reason to do this one in
16 private.

17 MR. WARBURCH: Well

18 THE COURT: The original one submitted wasn't
19 that private, it was a public thing. I see no reason
20 to do this in private and I won't do it.

21 MR. WARBURCH: I would like to proceed now.

22 THE COURT: Is there any other reason why
23 this defendant should not be heard at this time?

24 MR. WARBURCH: No other reason.

25 THE COURT: You've heard the presentence

1 report?

2 MR. WARBURGH: Yes.

3 THE COURT: I see you furnished the Court with
4 a presentence memorandum.

5 MR. WARBURGH: Yes.

6 THE COURT: Mr. Daniels, is there any reason
7 why you should not be sentenced at this time?

8 THE DEFENDANT: No sir.

9 THE COURT: Among other reasons, if I do this
10 in private, it gives this defendant some feeling
11 that he is somebody special. That's what comes out
12 of that. And that is what I have to avoid under
13 any circumstances. Under these conditions he's no
14 different from any other defendant who comes before
15 this Court.

16 MR. WARBURGH: I didn't mean it that way.

17 THE COURT: That is what would happen. Are
18 you aware of that?

19 It would give him a feeling that he was
20 special and special arrangements were being made for
21 him and I am not in a position to do that.

22 MR. WARBURGH: I didn't mean it that way.

23 THE COURT: I might have made the same mistake
24 if I were in your place.

25 I could have made that mistake but I didn't.

1 But you did.

2 I am willing to hear you now.

3 MR. WARBURGH: Can I start now and maybe at
4 the end --

5 THE COURT: Do it any way you feel you have to.

6 MR. WARBURGH: Your Honor, the defendant is
7 before the Court after having pled guilty to giving
8 an unlawful gratuity to Government agents. My
9 requests are going to be directed towards a
10 recommendation of what I feel the Court should do
11 with Mr. Daniels as far as the sentence is concerned.
12 I would like the Court to be guided, and I make the
13 suggestion, by the American Bar Association standards
14 on sentencing and probation and the American Bar
15 Association suggests that probation should be the
16 sentence and they set forth certain reasons why a
17 Court should sentence a defendant to probation.

18 Some of the reasons are that it enhances the
19 rehabilitation that any defendant who was to be
20 sentenced needs.

21 It minimizes the impact on the defendant and
22 also on his family.

23 It permits the defendant to remain in contact
24 with the community.

25 These are some of the reasons the American Bar

1 Association suggests that probation should be the
2 sentence.

3 In a general way, I ask that the Court be
4 guided by those standards that they have set.

5 Now, with respect to Mr. Daniels, he stands
6 before the Court on his plea of guilty. He is a man
7 who comes from a family with a wife and two children.
8 The two children are in high school. I believe he
9 comes from a good family and I believe this was an
10 isolated thing in his life.

11 There were a number of things in the probation
12 report that I want to put in perspective and I hope
13 I've done so in the presentence memorandum I've
14 submitted.

15 THE COURT: If you wish to refer to that or
16 make any statements at this point you may.

17 MR. WARBURGH: I believe I adequately set forth
18 in my memorandum and tried to put into perspective
19 what those points were.

20 I would like to summarize what it was. In the
21 offense portion of the presentence report prepared by
22 Probation Department there was some indication that
23 Jerome Daniels had used another name in acquiring
24 certain leases to real property. I tried to set that
25 in perspective and the circumstances surrounding that

1 I believe is substantiated in part by what the
2 Government informed Mr. Daniels yesterday and Friday.

3 Also, I would like to point out Mr. Daniels'
4 participation in the crime to which he has pleaded
5 guilty was one of a passive participant. I believe
6 the active participant and possibly instigator was
7 the co-defendant who pleaded guilty and was sentenced
8 by your Honor about a week or so ago.

9 I believe that the tape recording bears this
10 fact out and if the Court has any questions concerning
11 that I have a transcript provided to me by the
12 Government and I can show the Court in certain instances
13 where Mr. Rapiowitz took the active role and
14 Mr. Daniels was merely a passive participant.

15 I believe at this time the Court is aware of
16 Mr. Daniels' medical problems and the psychological
17 problems. There were a number of letters submitted
18 to the Court by various doctors attesting to his
19 extreme physical condition, cardiac condition, hyper-
20 tension, diabetes, coronary insufficiency. These
21 doctors are of the opinion that any incarceration
22 would be severely detrimental to the defendant, and
23 I know of at least one doctor who was of the opinion
24 that even minimum incarceration would result possibly
25 in Mr. Daniels' death.

1 I strongly urge the Court to consider that
2 in passing judgment on Mr. Daniels.

3 In addition, he has a history of psychiatric
4 illness which goes back in the 1950's. It is not
5 something of recent vintage. And that again I would
6 ask the Court to consider, to be very significant
7 in passing judgment.

8 I would like to point out his physical
9 condition predates his involvement in this particular
10 crime and I think was one of the reasons he became
11 involved in the crime.

12 The man is extremely paranoid, apprehensive,
13 and I believe there is another reason why he became
14 involved in this type of crime.

15 The presentence report makes mention of the
16 fact that Mr. Daniels has been involved in what they
17 classify as pornography or smut. I think these are
18 baseless allegations. If your Honor is going to
19 credit them, I would like a chance to --

20 THE COURT: I am not going to credit those in
21 any way.

22 MR. WARDURGH: In addition, parts of the
23 presentence report are directed towards the other
24 charges that I believe motions will be made for their
25 dismissal, involving income tax evasion. I tried to

1 put that in perspective as far as the presentence
2 memorandum I submitted is concerned.

3 Suffice it to say those charges are not before
4 the Court at this time and there has been no proof
5 as to any of them.

6 I would ask the Court

7 THE COURT: This case grew out of what those
8 charges were a part of.

9 MR. WARBURGH: Yes.

10 THE COURT: I know it's not before the Court
11 but wholly not unfounded. If that was so this case
12 wouldn't be here.

13 MR. WARBURGH: That is an issue, I believe,
14 your Honor, that could be fully explained in the tape
15 recording and transcript I have.

16 THE COURT: Those are as to the people that
17 were dealt with that brought this case over to the
18 Federal side of the picture --

19 MR. WARBURGH: Yes. There was an ongoing
20 investigation into Mr. Daniels' tax problems and that
21 precipitated the giving of the unlawful gratuity.

22 THE COURT: The arrangements were made for
23 this situation.

24 MR. WARBURGH: Yes.

25 THE COURT: You can't say they are wholly

1 unfounded. That is not so.

2 MR. WARBURGH: I don't want the Court to believe
3 that there wasn't any defense to these charges.

4 THE COURT: Defense to the charge before this
5 Court? There is a defense to every charge. That is
6 normally so.

7 MR. WARBURGH: In addition, your Honor, you
8 have received I believe other letters.

9 THE COURT: I receive numerous letters.

10 MR. WARBURGH: From people --

11 THE COURT: Medical people, attending to his
12 medical and psychological condition and letters of
13 all nature as to this individual.

14 MR. WARBURGH: You've also received letters in
15 addition to these which I would like to approach the
16 bench on.

17 THE COURT: All right.

18 (The following took place at side bar.)

19 MR. RITCHIE: I would like to note Steven
20 Frankel, special attorney, is here.

21 MR. WARBURGH: I would like to make reference
22 to two letters, one from Mr. Frankel and one from
23 Mr. Ritchie concerning --

24 THE COURT: The Court has received and
25 considered those in connection with this sentence.

1 MR. WARBURGH: I would like to underscore the
2 statements in Mr. Frankel's letter because of his
3 cooperation and the fact he has offered to testify
4 and will testify at a forthcoming trial. I believe
5 that is in the Southern District. And he is of the
6 opinion that Mr. Daniels' incarceration won't serve
7 any purpose, constructive purpose --

8 THE COURT: He would have to say that, not you.

9 Mr. Frankel, what do you say?

10 MR. FRANKEL: I believe as I stated in the
11 letter to the Court the fact that Mr. Daniels has
12 cooperated with the agent of the IRS who has been
13 working with me, and his cooperation has led not
14 only to the foundation for certain tax cases against
15 other persons but his testimony in a forthcoming
16 case will be helpful.

17 I would not want to interfere with the Court's
18 province but just mention the fact that this defendant
19 is cooperating and has continued to be a source of
20 information in the area where he is working and he
21 will testify. I was more concerned about his
22 physical health which was much disrupted by this
23 situation. I was concerned if incarcerated for any
24 period of time that might act as a detriment either
25 psychologically or physically. I indicated that I

1 I am extending permission for him to call a witness without
2 any assistance.

3 THE COURT: Mr. Ritchie.

4 MR. RITCHIE: By going to this case has been
5 primarily as a conduct. This case is primarily a
6 Manhattan and Bronx case. He doesn't know too much
7 about the Eastern District. He hasn't been much
8 counsel to me because he is a New York man.

9 In conversations with the District and conversa-
10 tions with the Internal Revenue Enforcement Agent,
11 they have informed me Mr. Daniels has been extremely
12 cooperative and extremely friendly and has put
13 him in some personal danger as a result of the
14 cooperation.

15 I believe he was certainly trying to make
16 amends for the crime he did commit.

17 THE COURT: Anything else?

18 MR. FRANKEL: I was asked to appear to the
19 attorney at Mr. Nadjari's office and Mr. Daniels has
20 an outstanding indictment there based upon the same
21 underlying facts and apparently he indicated they
22 intended to prosecute. Even if Mr. Daniels would
23 be given leniency here, he would not go free from
24 any prosecution there.

25 A VOICE: I am Robert Scott, Inspector with

1 the Internal Revenue Service.

2 THE COURT: The Court has been very disturbed
3 because of a many letters from many doctors,
4 psychiatric and medical people, concerning
5 Mr. Daniels' condition.

6 Because of that, it is the Court's position
7 that the Bureau of Prisons should have an opportunity
8 to study Mr. Daniels. And under those circumstances
9 I intend to have him studied by the Bureau of Prisons
10 for three days and he will return in 30 days for the
11 sentence. That's what I intend to do. They are
12 waiting for him and they are going to study him.
13 The reason I am doing this is because of the numerous
14 letters I have gotten from doctors as to his condition.
15 And this disturbed the Court and for that reason I
16 am going to have him studied for three days. He
17 will return in a month and I will either modify the
18 sentence or affirm.

19 MR. WARBURGH: I have the same thing before
20 Judge Mishler and the defendant voluntarily went and
21 he wasn't incarcerated while the study was going on.

22 THE COURT: What was that?

23 MR. WARBURGH: The defendant's name was Paul
24 Nathans. I would ask that the Court permit --

25 THE COURT: You see, I would rather they take

1 him over, and he will be there today and tomorrow and
2 then let him go Thursday. I would rather they take
3 him over because there may be some personal problems
4 and he may not make it.

5 MR. WARBURGH: I can assure the Court --

6 THE COURT: No. I would rather they take him
7 over. I will do it the way I have decided. I feel
8 it would be done properly and there will be no problems.
9 That is what I intend to do.

10 Okay.

11 (The following took place in open court.)

12 THE COURT: Mr. Warburgh, anything further?

13 MR. WARBURGH: A few things that were mentioned
14 in the presentence report. One that Mr. Daniels has
15 a lavishly furnished apartment. I have neglected to
16 my memorandum photographs of the apartment. If the
17 Court is crediting that --

18 THE COURT: You put a description in your
19 memorandum and the Court has some idea as to the type
20 of living quarters that Mr. Daniels lives in.

21 MR. WARBURGH: In addition, I would like to
22 reemphasize that Mr. Daniels comes from an intact
23 family. His wife works for the Board of Education.
24 I believe that there would be no purpose served by
25 incarcerating Mr. Daniels in this tax case and I

1 believe that his family at this point has suffered,
2 Mr. Daniels has suffered. The man has constantly
3 been in contact with me I would say seven days a
4 week. Sometimes he has been irrational and sometimes
5 rational. The man I believe has been punished to an
6 extent at this point that he has suffered since his
7 arrest and that has been over a year ago.

8 I would ask the Court to consider all the
9 factors I have said and factors brought to the
10 Court's attention at this bar, and to place
11 Mr. Daniels on probation because I feel that the
12 Probation Department can guide him to being a
13 constructive member of society.

14 THE COURT: Thank you.

15 Mr. Daniels, do you wish to say anything to
16 the Court at this time?

17 THE DEFENDANT: Yes, your Honor. Only that
18 I am sorry that I got involved and I got involved in
19 it because I was frightened. I didn't believe I
20 was guilty of anything but I was scared. I tried to
21 atone to everything I did by giving the Government
22 full cooperation. I have cooperated with other
23 special attorneys who were willing to write letters
24 for me. For my personal safety it was advised they
25 did not write other letters.

1 That's all I have to say to your honor.

2 THE COURT: Mr. Daniels, you pleaded guilty
3 to Count 3 of an indictment and it is adjudged that
4 the defendant is hereby committed to the custody of
5 the Attorney General or his duly authorized represen-
6 tative for imprisonment for a term of six months and
7 fined the sum of \$5,000.

8 There shall be a stay of this sentence until
9 January 9, 1976, pending a study and report to be
10 furnished to this Court by the Bureau of Prisons.

11 The defendant is hereby committed for imprison-
12 ment for a study and report as described in Section
13 4208(b) and (c) of Title 18 United States Code, on
14 Tuesday, December 9, 1975, Wednesday, December 10,
15 1975, and Thursday, December 11, 1975. On Thursday,
16 December 11, 1975, the defendant is to be released
17 from custody.

18 Thereafter, the results of such study are to
19 be turned over to this Court within 30 days unless the
20 Court grants further time.

21 The defendant is ordered to personally return
22 with his attorney to this court and the sentence of
23 imprisonment here imposed shall be subject to
24 modification in accordance with 18 U.S.C. 4208(b).
25 This sentence is imposed as there is a serious

question as to whether this defendant can survive
confinement due to his medical condition.

MR. RITCHIE: I would ask that the remaining
count of 74-CR-787 be dismissed.

THE COURT: Counts 1 and 2?

MR. RITCHIE: Oh, yes.

MR. WARBURG: Mr. Barker, would it be
possible to subpoena him to court?

THE COURT: No. Go over now, they are going
to start and do the study.

MR. RITCHIE: One, two and four?

THE COURT: All right, motion granted. Thank
you.

* * *

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 -----x

5 UNITED STATES OF AMERICA, :
6 Plaintiff, :
7 against : 74 CR 787
8 JEROME DANIELS, :
9 Defendant. :
10 -----x

11 United States Court House
12 225 Cadman Plaza East
13 Brooklyn, N. Y.

14
15 February 18, 1976
16 2:20 o'clock p.m.

17
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Before:

HONORABLE HENRY BRAMWELL, U.S.D.J.

CRIMINAL CAUSE FOR SENTENCE

GERALD I. METZ, C.S.R.

APPEARANCES:

DAVID G. TRAGER, ESQ.,
United States Attorney for the
Eastern District of New York

BY: DAVID RITCHIE, ESQ.,
Assistant U. S. Attorney

MESSRS. KASSNER & DETSKY
Attorneys for Defendant
122 East 42nd Street
New York, New York

BY: PETER J. FABRICANT, ESQ., of Counsel
186 Joralemon Street
Brooklyn, New York
and
PAUL WARBURGH, ESQ., (Late)

ALSO PRESENT:

JEROME DANIELS, Defendant

1
2 MR. RITCHIE: Your Honor, I have for
3 this hearing two Government physicians, one
4 of the physicians, Dr. Ruggiero, who examined
5 Mr. Daniels at the Metropolitan Correction
6 Center Facility, and the consulting psychiatrist,
7 Dr. Goldstein, also to testify.

8 THE COURT: All right, would you care
9 to question them concerning his condition
10 and what they found?

11 MR. RITCHIE: Yes. The Government
12 will call as its first witness Dr. Goldstein.

13 THE COURT: Are you going to have any
14 witnesses?

15 MR. FABRICANT: No, your Honor.

16 THE COURT: Just the statement from the
17 doctors?

18 MR. FABRICANT: Yes. I have a letter
19 which --

20 THE COURT: I will accept that. Who
21 is this from? -

22 MR. FABRICANT: This is from
23 Dr. Chusid, who was prepared to come here
24 last week, but was unable to be here today.

25 THE COURT: All right, I will take that.

1
2 N A O M I G O L D S T E I N , called as a witness
3 on behalf of the United States, after
4 having been first duly sworn by the
5 Clerk of the Court, was examined and
6 testified as follows:

7 THE COURT: You may proceed, Mr. Ritchie.

8 DIRECT EXAMINATION

9 BY MR. RITCHIE:

10 Q What is your occupation?

11 A I am a psychiatrist.

12 Q Where are you presently practicing?

13 A I am Chief of Psychiatric Services at
14 the Metropolitan Correctional Center.

15 Q What is your educational background in
16 the field of psychiatry?

17 A Well, in addition to my medical school
18 training and rotating internship, I did my residency at
19 Bellevue Psychiatric Center from 1957 to 1960.

20 Q What was your medical school background?

21 A I went to New York Medical College and
22 graduated in 1956.

23 Q Since the year 1960, where have you been
24 practicing medicine and psychiatry?

25 A Well, in addition to private practice,

1
2 I was a staff psychiatrist and eventually Chief of the
3 Psychiatric services at the Criminal Court of the City
4 of New York and the Supreme Court Psychiatric Clinic.

5 Q In the course of your practice have you
6 had occasion to write any medical treatises at all?

7 A Well, I have written a few papers. Not
8 particularly. I have written on competency in the
9 Criminal Court situation.

10 Q Dr. Goldstein, in the course of your duties
11 as Chief of Psychiatric Services at the Metropolitan
12 Correctional Center, did you have occasion to observe
13 and treat Mr. Jerome Daniels?

14 A Yes, I did.

15 Q Based on your observations and treatment
16 of Mr. Daniels, did you come to a diagnosis of any
17 psychiatric problems he may have had?

18 A Yes, I did.

19 Q What was your diagnosis?

20 A I made a diagnosis based on my one
21 concentrated examination, and on two days of informal
22 talking with him of schizophrenic reaction, chronic,
23 paranoid type, and a depressive reaction.

24 Q As a result of your observations and
25 treatment of Mr. Daniels, can you inform this Court of

1 the practicability of imprisonment for Mr. Daniels
2 with respect to whether he can be imprisoned?
3

4 A Well, the Bureau of Prisons has facilities
5 to take care of Mr. Daniels' needs. I am not sure I
6 fully understand the question, though.

7 Q What will those facilities be?

8 A He must be in an institution which has a
9 psychiatrist, and the Bureau of Prisons does have
10 institutions which have full-time or part-time regular
11 psychiatrists.

12 Q Could Mr. Daniels be given sufficient
13 psychiatric and custodial care to arrange for his safety
14 during the course of any incarceration?

15 A Well, I think the Bureau of Prisons is
16 prepared to deal with any type of problem. Whether it
17 would be possible to give Mr. Daniels the most intensive
18 supervision and care that would be desirable, it's hard
19 to say.

20 Q At any rate, the Bureau of Prisons could
21 take care of the custodial and maintenance aspects of
22 care with respect to Mr. Daniels or a similarly situated
23 person; is that correct?

24 A I believe so, yes.

25 Q You qualified your answer regarding how

desirable it would be for him to be incarcerated. Why do you qualify your answer?

A Because I think that we, no matter how much psychiatric service we have to offer -- he can't be under supervision a hundred percent of the time, and there is a potential for suicide. There has been a previous suicide attempt, and, in addition, the incarcerating -- the situation itself could be detrimental to his health.

MR. RITCHIE: I have no further questions.

THE COURT: Do you wish to examine the doctor?

MR. FABRICANT: Yes, I do.

THE COURT: You may proceed.

CROSS-EXAMINATION

BY MR. FABRICANT:

Q Dr. Goldstein, at the Metropolitan Correctional Center, for how long a period of time did your interview of Mr. Daniels last?

A I was there approximately one hour.

Q Then there was intermittent conversations with him?

A Subsequently, yes.

Q Do you know how many psychiatrists there

2 are that attend the prisoners at Danbury Correctional
3 Institution?

4 A Yes.

5 Q How many?

6 A There are two.

7 Q There are two?

8 A Yes.

9 Q Do you know the inmate population of
10 Danbury?

11 A I don't know. Is it about 600?

12 Yes.

13 Q Doctor, what facilities are there that
14 the Bureau of Prisons has which would prevent a suicide
15 attempt by Mr. Daniels?

16 Let me rephrase it. Are you talking in
17 terms of padded cells, of removal of all the sharp objects
18 from the prisoner of that kind of thing?

19 A No, I am not. I am thinking in terms of
20 adequate psychiatric care. An institution such as
21 Danbury just now has two very expert psychiatrists and
22 a small psychiatric hospital where they have a psychiatric
23 nurse and a psychiatric social worker, and I feel that
24 that -- the work I have seen coming out of there is
25 really very high quality and people are being taken care of.

1
2 I am not thinking in terms of padded cells. I am
3 thinking in terms of what I would consider more
4 adequate psychiatric care.

5 Q Would you consider Mr. Daniels a psychotic?

6 A I would say that he has a potential for
7 being psychotic and that he is more or less borderline
8 at this time.

9 Q Do you have an opinion as to whether or
10 not the stress of incarceration, the stress and strain
11 of Mr. Daniels' being taken away from his home and family
12 would have any effect on his psychotic state, that is,
13 would his psychotic state decompensate under the stress
14 of confinement or being taken away from his home and
15 family?

16 A I think that there is a possibility for
17 decompensation; not so much from the separation, but
18 from the need to cope with the present situation.

19 Q Would you say that there would be stress
20 toward an individual such as Mr. Daniels who has never
21 experienced a prison situation?

22 A Yes.

23 Q And it would be more stress to a person
24 such as him with his psychotic condition and the fact
25 that he has never spent time in jail as opposed to a

1 person, for example, who has been in jail before?

2 A Yes. A first incarceration is very stress-
3 ful.
4

5 Q Doctor, before you testified here today,
6 did I hand you a letter from Dr. Joseph Martorano, a
7 psychiatrist, to read?

8 A Yes, you did.

9 MR. FABRICANT: May the record indicate
10 that last week I presented this letter to your
11 Honor. It's a letter dated February 10, 1976.

12 THE COURT: The Court has that letter
13 before it now. The letter is here.

14 Q Doctor, did you read the conclusory
15 part of the letter which stated that, "...placing
16 this patient in an institution may have the terribly
17 undesirable effect of bearing him a totally decompensated
18 chronic psychotic for the remainder of his life"?

19 THE COURT: Where are you reading from?

20 MR. FABRICANT: It's the second to the
21 last paragraph, your Honor.

22 THE COURT: Go ahead. You may
23 answer that, Doctor.

24 Q Do you remember reading that?

25 A Yes, I did read it.

1
2 Q Do you agree with Dr. Marcorano?

3 A Not all together, no.

4 I agree with this part of the statement,
5 where it states about the decompensation, the possibility
6 of decompensation. I don't agree one hundred percent
7 that this is something which will be the psychiatric
8 picture for the rest of his life.

9 Q It says it may have the undesirable effect.
10 With that caveat, saying, "It may have," would you agree
11 with that?

12 A Yes.

13 Q Isn't it true in psychiatry, you can hardly
14 ever give an absolute answer?

15 A That's true. But I don't know -- I think
16 I would be reluctant to make such a prediction. It
17 certainly would be detrimental. I think we have no
18 disagreement. It would be detrimental. It's a very
19 stressful situation, and for the moment we would have
20 to deal with the possibility of more serious problems.

21 Q Doctor, assume, if you will, that
22 Mr. Daniels has and has had for many years, hypertension,
23 high blood pressure; assume, further, if you will, Doctor,
24 that Mr. Daniels is a diabetic; assume, if you will,
25 Doctor, that Mr. Daniels suffers from angina pectoris;

1
2 assume, if you will, Doctor, that Mr. Daniels in recent
3 years has suffered a heart attack on two occasions.
4 Assuming all those facts, Doctor, do you think that the
5 stress of incarceration could harm Mr. Daniels physical
6 health as well as his mental health?

7 THE COURT: I think what our problem
8 right here today is, I think that yourself
9 and the other attorneys who have represented
10 Mr. Daniels have stated, it will be fatal to
11 him. Harm we know is going to happen. The
12 idea is, is this going to be fatal? That's
13 what it is. The harm we all know. Every
14 defendant I have, there is harm to them when
15 I send them away, and they suffer from one
16 thing or another. The thing is, is this going
17 to be fatal? That's what the Court wants to
18 know, and this hearing is only advisory to the
19 Court. But the harm we know. I know it's
20 going to harm him. It will harm anybody,
21 anybody who has to go in for this. Is it
22 going to be fatal? That's the reason I gave
23 you this hearing and that has been the
24 contention from the outset of this defendant.

25 MR. FABRICANT: Yes, your Honor.

1
2 THE COURT: The harm I know. I recognize
3 that the minute I sentence a man, I know it's
4 going to be harmful to him. It's not a nice
5 thing.

6 MR. FABRICANT: Yes, that's true under
7 every circumstance.

8 THE COURT: Under every circumstance,
9 every one I get. There is no question about it.
10 And many of them have never been incarcerated.
11 before. No question it's harmful.

12 It has been the contention that if
13 Mr. Daniels is incarcerated, it will be fatal.
14 This is what you have put before this Court
15 and this is what you are to ask the Doctor
16 about.

17 You said -- and the other attorney,
18 Mr. Warburgh -- he's going to die. If you put
19 him in prison, it will be fatal, and most of
20 the letters were to that effect, that the
21 incarceration was definitely going to be
22 fatal to this defendant. That's what you
23 should question the doctor about.

24 BY MR. FABRICANT:

25 Q Dr. Goldstein, as His Honor has stated, I

1 have submitted letters from numerous doctors to His
2 Honor stating that there would be a great likelihood of
3 fatality in jail for Mr. Daniels based on his prior
4 health, both physical and mental, and that, in words or
5 substance, the stress of incarceration or being taken
6 away from his home and family would very likely aggravate
7 the hypertension, to the extent of his suffering another
8 heart attack, and very conveniently dying in prison.

9 Do you have an opinion as to that?

10 A I have not examined Mr. Daniels medically,
11 and I would not make a prediction about his medical
12 condition.

13 Q Your opinion as to his psychiatric
14 condition is that -- and correct me if I am wrong --
15 incarceration, which, of course, would be psychologically
16 damaging to any defendant who is incarcerated, would
17 under the past and present psychosis or near psychosis
18 of Mr. Daniels be more damaging to him than to an
19 ordinary person that Judge Bramwell sentences to jail?

20 A I think that is true.

21 MR. FABRICANT: Thank you very much. I
22 have no further questions.

23 THE COURT: Mr. Ritchie?

24 MR. RITCHIE: I have no redirect.
25

1
2 THE COURT: Mr. Ritchie, you may call
3 another witness if you wish.

4 MR. RITCHIE: The Government will call
5 as its next witness, Dr. Ruggiero.

6 A N T H O N Y J . R U G G I E R O , called as
7 a witness on behalf of the United States,
8 after having been first duly sworn by the
9 Clerk of the Court, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. RITCHIE:

13 Q Mr. Ruggiero, what is your occupation?

14 A I am a physician, medical doctor, sir.

15 Q Are you employed on a consulting basis
16 at the Metropolitan Correctional Center?

17 A I am sir.

18 Q Approximately what portion of your
19 professional time is devoted to that particular activity?

20 A I would say two hours every morning.

21 Q Monday through Friday?

22 A Yes, and emergency calls.

23 Q What is your background in the field of
24 medicine?

25 A I am an Assistant Physician at the French

1 Polyclinic Hospital in New York City for the last
2 21, 22 years. I am a graduate of the University of
3 Naples, 1937, took a State Board examination in
4 New York City, did an internship, did a residency in
5 medicine, was a physician in the Pacific, the Armed
6 Forces.

7
8 Q You were with the Army?

9 A Yes, Army.

10 Q Your background is in medicine, so you
11 would be an internist, would that be correct?

12 A I do internal medicine, yes.

13 Q You have been practicing internal medicine?

14 A I have my own practice, yes sir, down at
15 294 West 11th Street in Manhattan.

16 Q That would be for approximately the past
17 36 years or so?

18 A Well, let me say this. I left the Armed
19 Services in '46. I would say since '46. I practiced
20 in Europe, too, as Assistant Physician at the University
21 of Naples.

22 Q That was all the way back in the '30's,
23 is that correct?

24 A That was in the '30's, yes.

25 Q In the course of your duties as a physician

1
2 at the Metropolitan Correctional Center, did you, along
3 with any other doctor, have occasion to examine Mr. Jerome
4 Daniels at anytime?

5 A Yes, sir.

6 Q If you know, who was the other physician
7 who examined Mr. Daniels?

8 A I wouldn't know offhand if Dr. Weinbaum
9 examined him, but occasionally he is seen by the
10 physician's assistant. We do have physician assistants
11 who check the patient's blood pressure, pulse, respiration,
12 temperature, stuff like that.

13 Q As a result of your observations of
14 Mr. Daniels, did you come to any diagnosis of illness?

15 A Yes, I did. I came to the diagnosis of
16 cardiovascular hypertensive heart disease, diabetes
17 mellitus, obesity, anginal syndrome, coronary artery
18 disease.

19 Q Are you familiar with the facilities
20 available at the various federal prisons to treat the
21 medical problems of inmates?

22 A I am, sir.

23 Q Are there facilities available in the
24 Federal Prison System to care for a person with the
25 illnesses that you have described?

1
2 A Yes. I would like to qualify that, sir.

3 We do have a laboratory and occasionally
4 we have to use facilities of the US Public Hospital in
5 Staten Island. Occasionally we use Bellevue, also, in
6 New York City.

7 THE COURT: That's in connection with the
8 Metropolitan Correctional Center?

9 THE WITNESS: Right, sir.

10 We use those two facilities at times.

11 Q Are you familiar with the other facilities
12 of the Federal Prison System?

13 A Yes, I am, sir.

14 Q Would an inmate suffering from the illnesses
15 that Mr. Daniels is diagnosed as having -- could such an
16 inmate be cared for in the Federal Prison System?

17 A He certainly can, sir.

18 Q What facilities are available at what
19 prisons?

20 A Well, we have laboratory facilities, one.
21 In West Street we had X-ray facilities. At the present
22 time our X-ray facilities, since it's a new institution,
23 are not available. They will be available. At the
24 present time, all laboratory work can be done. Now, we
25 do use the facilities of Bellevue and the US Public Health

1
2 for X-rays. We do have electrocardiograms at MCC. We
3 can take an electrocardiogram if we want. We use these
4 two facilities for X-rays and other blood chemistry tests,
5 sir.

6 Q Are you familiar with the facilities
7 available at Springfield, Missouri?

8 A No. But I do understand that it has complete
9 facilities for the examination of practically any patient.

10 Q You, yourself, have never been there?

11 A I have never been to Springfield.

12 THE COURT: I have a letter from
13 Warden Taylor and he states in there: "The
14 Federal Correctional Institution at Danbury,
15 Connecticut is the Northeast Region Psychiatric
16 Referral Center and would be capable of
17 handling this type of patient", and he's
18 referring to Mr. Daniels. Do you agree with
19 that?

20 THE WITNESS: I agree with that.

21 THE COURT: They would be able to
22 handle him as a patient and an inmate?

23 THE WITNESS: Yes, sir.

24 THE COURT: Continue, Mr. Ritchie.
25

BY MR. RITCHIE:

Q Does the Danbury facility have medical facilities as well as psychiatric facilities?

A Yes.

Q It would have a prison hospital; is that correct?

A Yes.

Q Would an inmate patient at Danbury Hospital be able to be taken care of if he had the same medical maladies that Mr. Daniels suffers from?

A I believe so, yes sir.

MR. RITCHIE: I have no further questions of this witness.

THE COURT: All right, I will let you cross-examine the doctor.

CROSS-EXAMINATION

BY MR. FABRICANT:

Q Dr. Ruggiero, did you personally examine Mr. Daniels?

A Yes, sir.

Q How long did your examination last?

A I would say about 15, 20 minutes, sir.

Q What did the examination consist of?

A The examination consisted of physical

1
2 examination, eyes, ear, nose and throat, heart and
3 lungs, pulse, blood pressure. We ordered a urine
4 analysis in cases like this. In all cases of hyper-
5 tension, we order urine analysis, CBC's.

6 Q What was the result of the urine analysis?

7 A The urine analysis -- I don't recall offhand.
8 Since this patient is a diabetic, I do not recall what
9 it was at that time?

10 Q Dr. Ruggiero, what, if you know, are
11 precisely the facilities at Danbury which could care for
12 Mr. Daniels?

13 A Well, I do know they have a rather complete
14 laboratory where they could do urines, blood chemistries,
15 X-rays, electrocardiograms, which would be the essential
16 laboratory requirements for such a patient.

17 Q Dr. Ruggiero, under the tension and
18 stress associated with incarceration, do you have an
19 opinion whether or not Mr. Daniels would be likely to
20 suffer a heart attack, a stroke or a hypertension
21 attack?

22 A I would have to say that anybody who has
23 hypertension, who is overweight, who has diabetes, that
24 is a possibility.

25 Q Would the possibility be greater because

1
2 of the stress of the incarceration?

3 A Stress and incarceration naturally would
4 increase the possibility, of course.

5 Q Before you testified today, Dr. Ruggiero,
6 did you have an opportunity at my request to read a
7 letter from Dr. F. Leslie Chusid, dated February 17th, 1976,
8 which I handed up to the Court today?

9 A I did.

10 THE COURT: I have the original here
11 before the Court.

12 Q In reading the letter, you know that
13 Dr. Chusid has treated Mr. Daniels since 1971?

14 A Yes.

15 Q Did you read the last sentence of the
16 first paragraph which states: "His life span is going
17 to be short as is. The placement in an institution
18 outside his home, in my estimation would have the greatest
19 possibility of inducing further premature death." Do you
20 remember reading that?

21 A Yes.

22 Q Do you agree with Dr. Chusid or have you
23 an opinion as to that statement made by Dr. Chusid?

24 A Well, my opinion of the whole situation
25 here, of this condition, of this case, is that Mr. Daniels

1
2 carries an enormous amount of weight, which is most
3 deleterious to him. The greatest thing that he could do
4 for himself would be to lose weight, no question about it.
5 That would improve his chances, sir, no question in my
6 mind, no doubt about it. Naturally, with the help of
7 high blood pressure medicine, with proper diabetic care,
8 with a diet, of course, all these things would be helpful.

9 Q I appreciate your statement, Doctor. But
10 if possible, I would like your opinion, if you have one,
11 as to the statement by Dr. Chusid, Clinical Professor
12 and Respiratory Therapy Doctor of Mount Sinai, that, in
13 his estimation the placement in an institution outside
14 Mr. Daniels' home would have the greatest possibility of
15 inducing further premature death?

16 A I would want to say that prison does cause
17 stress and does cause tension, and can increase blood
18 pressure, yes. How much it can contribute to what you
19 are stating, I doubt if anybody could make the statement.

20 Q Would you agree that a person with
21 Mr. Daniels' health history, there would be a much greater
22 chance of a heart attack or a stronger than normal chance
23 with a healthy or average healthy individual?

24 A I agree with that, yes.

25 Q So would you say -- and correct me if I am

1
2 wrong -- that the placing of Mr. Daniels in jail could
3 and probably would have greater medical ramifications
4 than to place an average person in jail, a person who
5 does not have the high blood pressure, has not suffered
6 two heart attacks?

7 A Yes, I would say, "Yes", to that.

8 MR. FABRICANT: May I have one minute,
9 your Honor?

10 THE COURT: Surely.

11 (Pause.)

12 Q Mr. Ruggiero, also before your testimony
13 today, did you have an opportunity at my request to
14 read a letter written to the Judge by Dr. Nicholas A.
15 Pace, dated February 9, 1976?

16 A I don't think I read that one, sir,
17 because I only read the one previously cited.

18 MR. FABRICANT: May I show the Doctor
19 that letter?

20 THE COURT: Yes, show it to him.

21 Q I ask you to read this letter, in particular
22 the paragraph that --

23 MR. RITCHIE: After he has read it,
24 could we have it marked for identification?

25 MR. FABRICANT: I think the Judge has

1
2 a copy.

3 THE COURT: I have a copy. He has given
4 me a copy.

5 THE WITNESS: I read this statement, sir.

6 THE COURT: Refer specifically to any-
7 thing to which you may wish to question him
8 on from this statement.

9 MR. FABRICANT: Certainly, sir.

10 Q Doctor, now that you had an opportunity
11 to read this letter, in particular the third paragraph,
12 which states, Dr. Pace writing, "It is my sincere
13 impression that because of Mr. Daniels severe mental and
14 physical state, incarceration of any kind may lead to
15 Mr. Daniels developing a cerebral hemorrhage secondary
16 to his hypertension or another coronary occlusion"?

17 A Sir, that is a possibility, but by no means
18 a conclusion.

19 Q Well, it is a conclusion by Dr. Pace.

20 THE COURT: As far as he is concerned,
21 it is.

22 A As far as I see it --

23 THE COURT: It may be a conclusion for
24 Dr. Pace.

25 A As far as I could see it, it may be a

possibility that it could happen.

Q Isn't it more of a possibility --

A Than a person that didn't have hypertension, yes.

THE COURT: We all recognize this, Counselor.

A Yes.

THE COURT: We all recognize this. It is more a possibility because of his condition.

A If a man is sick, yes, with the condition of hypertension, naturally, he's got a better chance of having an accident, a cerebral vascular accident, yes.

MR. FABRICANT: Thank you. I have no further questions.

THE COURT: Anything further?

MR. RITCHIE: I have a couple of questions.

THE COURT: Proceed, Mr. Ritchie.

REDIRECT EXAMINATION

BY MR. RITCHIE:

Q You stated you were in agreement with Dr. Chusid's conclusion that there was a heightened possibility of premature death from imprisonment. In a prison setting, what steps could be taken to reduce that

1
2 heightened possibility?

3 A The most important one would be to reduce
4 this man's weight because that weight is causing the
5 blood pressure, that weight is causing a worsening of
6 the diabetes, that weight is causing pressure on his
7 heart, it's causing the body to need more oxygen, and
8 less oxygen is going to those coronary blood vessels,
9 thus pain in the chest.

10 So weight is the big problem here. Can
11 it be helped? Of course it can, with the help of the
12 patient.

13 Q Any other steps that could be taken in
14 a prison setting?

15 A Definitely. This man can be watched care-
16 fully as far as his diabetes. He should be given a low
17 calorie, low fat, low carbohydrate diet, and again we
18 go back to the main issue, which is obesity, which is
19 causing this problem. At the moment Mount Sinai Hospital,
20 which is one of our best, and it's one of the hospitals
21 where Dr. Chusid works, they regard obesity as the first
22 stage of diabetes. It's a new concept, but it's very
23 true.

24 Q You didn't quite agree with Dr. Pace's
25 conclusion that incarceration would lead to --

1 THE COURT: He says it's a possibility.

2 THE WITNESS: It's a possibility, no
3 certainty, sir.

4 THE COURT: That was his response.

5 Q Are there ways of reducing the possibilities
6 in a prison setting?

7 A Yes, by reducing the blood pressure, by
8 reducing the weight, by improving the general condition
9 of this patient and by curbing the diabetes for the
10 maximum possibility, yes.

11 MR. RITCHIE: I have no further
12 questions.

13 THE COURT: Do you have any further
14 questions, Counsel?

15 MR. FABRICANT: Not at this time.

16 THE COURT: Doctor, thank you very much.

17 Any further witnesses?

18 MR. RITCHIE: No, I don't have any
19 further witnesses.

20 THE COURT: For the record, do you
21 have Warden Taylor's letter?

22 MR. RITCHIE: Yes.

23 THE COURT: Read that letter for the
24 record. Read the letter of December 15, 1975.
25

1
2 MR. RITCHIE: The letter is headed,
3 "United States Department of Justice,
4 Metropolitan Correctional Center," with the
5 address. It's addressed to the Honorable
6 Henry Bramwell, United States District Court
7 Judge, with the proper address. It's regarding
8 Daniels, Jerome, and it states as follows:

9 "This is in response to your letter
10 of November 6, 1975, in which you requested a
11 medical and psychiatric evaluation of Mr. Daniels.

12 "Our Consultant Physician confirms that
13 Mr. Daniels suffers from arteriosclerotic heart
14 disease, hypertension, diabetes, and obesity.
15 He is not in congestive failure, his diabetes is
16 controlled with diainase, an oral hypoglycemic
17 agent, and he presently appears to be in no
18 distress. Mr. Daniels hypertensive disease can
19 be controlled by a salt poor diet and anti-
20 hypertensive medication. The electrocardiogram
21 reveals no significant abnormalities. The
22 recurrent chest pains can be controlled with
23 nitroglycerin. We do not have the results of the
24 laboratory tests, but we do not expect any
25 alarming findings which would change the

1
2 prognosis. His physical condition would
3 be compatible with sedentary occupation and
4 in a non-agitative surroundings.

5 "Mr. Daniels' psychiatric prognosis
6 and capacity appear to be poor. He gives a
7 history of having had a nervous breakdown in
8 1951 with manifestations of acute psychosis.
9 Over the years he has experienced intermittent
10 auditory hallucinations and chronic paranoid
11 ideation with aggravation about four years ago.
12 At that time he made a suicide attempt and
13 he has been under psychiatric care since then.
14 Mr. Daniels has been treated with psychotropic
15 medication for severe depression, withdrawal
16 and the persistent paranoid thinking.
17 Hospitalization and shock treatments were
18 recommended last year but he refused.

19 At present Mr. Daniels is cooperative,
20 depressed, angry and his ideation is very
21 definitely paranoid although not bizarre. There
22 is no evidence of organic brain damage. He
23 recognizes that he has emotional difficulties
24 but has little awareness of how these problems
25 affect his behavior.

1
2 "Mr. Daniels probably will continue
3 to require psychotropic medication as well as
4 medications for his physical condition. He
5 does require close supervision as he is very
6 definitely agitated and suicidal. The
7 Federal Correctional Institution at Danbury,
8 Connecticut is the Northeast Region Psychiatric
9 Referral Center and would be capable of
10 handling this type of patient.

11 "We hope to have provided you with the
12 necessary information. We are happy to help
13 with matters of this nature and we hope you
14 will feel free to call on us at anytime.

15 "Best regards.

16 "Sincerely Yours,

17 "Larry Taylor, Warden."

18 THE COURT: Do you have anything else
19 you wish to present?

20 MR. RITCHIE: No, your Honor.

21 THE COURT: Counsel, do you have any
22 witnesses?

23 MR. FABRICANT: No, your Honor.

24 THE COURT: What I want you to do is
25 for the record, read the three letters that

1
2 you have from the three doctors.

3 MR. FABRICANT: The first is from
4 Dr. Joseph Martorano, 150 East 56th Street,
5 New York, New York 10022, dated February 10th, 1976:

6 "Dear Judge Bramwell:

7 "The following is submitted per your
8 request.

9 "As noted in previous reports, Mr. Daniels
10 is suffering from a severe psychotic depression
11 for which he receives large amounts of anti-
12 psychotic and antidepressant medication.

13 "Clinical investigation had revealed
14 that the patient is in extremely poor physical
15 condition. He was referred to Dr. Nicholas
16 Pace for a medical workup and discovered to
17 have a failing cardiovascular system which
18 was further strained by the presence of severe
19 endogenous obesity, hypertension and diabetes.
20 His cardiac condition has limited the avail-
21 able choice of psychiatric medications. He
22 still has had to maintain 200 mg. of imipramine
23 a day (a large dose of antidepressant
24 medication) as well as antipsychotic and
25 anti-anxiety medication.

1
2 "Mr. Daniels has been ill for an
3 extremely long period of time and has been
4 actively suicidal for the past four years.

5 "Mr. Daniels' psychiatric prognosis
6 and capacity appear to be very poor. He had
7 a nervous breakdown in 1951 with manifestations
8 of acute psychosis. Over the years he has
9 experienced intermittent auditory hallucinations
10 and chronic paranoid ideation with an
11 exacerbation about four years ago at which
12 time he made a suicide attempt.

13 "To further compound the medical
14 difficulties in this particular case, it must
15 be stated that the patient has had a chronic
16 debilitating case of paranoia since the age
17 of fifteen which has led to his adoption of
18 multiple identities and has greatly
19 interfered with his medical treatment as
20 exemplified by the strong recommendation on
21 several occasions that Mr. Daniels enter the
22 hospital for prolonged, intensive treatment;
23 however, because of his paranoid ideation,
24 he has been unable to do so.

25 "At the present time, the major

1
2 difficulty is that Mr. Daniels has an active
3 psychotic state combined with a severe
4 depression.

5 "The depressive state will most likely
6 deteriorate under any type of confinement and
7 should precipitate a stronger suicidal drive
8 which the patient can not even presently
9 control.

10 "Further, this entire issue is
11 worsened by the presence of a severe psychotic
12 state which will undoubtedly decompensate
13 under the type of stress represented by
14 incarceration. Unfortunately, psychosis of this
15 type is not always reversible and placing this
16 patient in an institution may have the
17 terribly undesirable effect of bearing him a
18 totally decompensated chronic psychotic
19 for the remainder of his life.

20 "I have read the prison reports and can
21 understand their summarization. However,
22 I would plead as a psychiatrist, that even the
23 most minimal institutionalization should be
24 avoided if at all possible.

25 "Thank you for your kind consideration.

1
2 "Respectfully submitted,

3 "Joseph I. Martorano, M.D."

4 The next letter your Honor, is from
5 Dr. Nicholas A. Pace:

6 "Dear Judge Bramwell, I have read
7 the Wardens report on Mr. Daniels medical
8 status from the Metropolitan Correctional
9 Institute. It is my feeling as previously
10 noted that Mr. Daniels has a very serious
11 psychiatric history of depression with
12 suicidal tendencies, a Arteriosclerotic
13 Heart disease with history of two Myocardial
14 Infarctions and presently severe angina
15 pectoris, essential hypertension and
16 diabetes mellitus.

17 "As indicated in my previous report
18 even though Mr. Daniels is under a multitude
19 of medications for the above conditions it
20 has been difficult to control Mr. Daniels
21 blood pressure, cardiac and diabetic problems
22 especially in light of the impending jail
23 sentence. I have noticed that with the
24 anxiety of the impending hearing Mr. Daniels
25 is having more angina attacks and his blood

1
2 pressure has remained high in spite of
3 intensive medical therapy.

4 "It is my sincere impression that
5 because of Mr. Daniels severe mental and
6 physical state, incarceration of any kind
7 may lead to Mr. Daniels developing a
8 cerebral hemorrhage secondary to his hyper-
9 tension or another coronary occlusion.

10 "The patients medical status is so,
11 that separation from his family and physicians
12 will cause Mr. Daniels premature complications
13 of his many medical problems.

14 "I have on file several letters from
15 other physicians and psychiatrists who have
16 treated Mr. Daniels and who concur with my
17 medical opinion.

18 "Based on his reaction to his impending
19 hearing I must stress that his reaction to even
20 minimal incarceration may have disastrous
21 results on his health.

22 "Very truly yours,

23 "Nicholas Pace, M.D."

24 And a final letter, your Honor, is from
25 Dr. E.Leslie Chusid:

1
2 "Dear Sir: I have read the recent
3 letters submitted to you by Warden Larry F.
4 Taylor. It is very easy to look at a medical
5 situation on paper and make a decision as to
6 a course of action. However, having known
7 Mr. Daniels since December 21, 1971, his total
8 mental and physical condition is extremely
9 borderline. Taken out of the environmental
10 surroundings of his family, this pathetic
11 individual has demonstrated to me in the
12 past rapid deterioration of his depressive
13 reaction and his diabetic hypertensive state.
14 The amount of medication he is required to
15 take makes him vulnerable to extraneous
16 factors, especially unfamiliar stress. His
17 life span is going to be short as is. The
18 placement in an institution outside of home,
19 in my estimation, would have the greatest
20 possibility of inducing further premature
21 death.

22 "If you need further details, please do
23 not hesitate to contact me at my office. Phone
24 Number BU 8-4600 at anytime. I am sorry I
25 did not have the opportunity to meet you on

1
2 Wednesday, February 11th, as originally
3 planned.

4 "Sincerely Yours, E. Leslie Chusid."

5 THE COURT: Anything else you wish to
6 present to the Court?

7 MR. FABRICANT: No, your Honor.

8 THE COURT: I will take a couple of
9 minutes and look at these papers, then I will
10 come back and see what the Court will do with
11 this matter.

12 (A recess was taken.)

13 THE COURT: Are you finished?

14 MR. FABRICANT: Yes, your Honor. I have
15 nothing to add to the medical reports.

16 (Mr. Warburgh appears at this point.)

17 MR. WARBURGH: Good afternoon.

18 THE COURT: We have completed the hearing.

19 MR. WARBURGH: I realize that.

20 THE COURT: After having completed the
21 hearing, the Court accepts the conclusions
22 from the doctors and the Warden at the
23 Metropolitan Correctional Center, and the
24 Court knows of the possibility that there may
25 be a deterioration in the health of Mr. Jerome

1
2 Daniels, but the Court feels that the
3 Federal Bureau of Prisons has the facilities
4 to provide medical and psychiatric treatment
5 and assistance to Mr. Daniels in connection
6 with his incarceration.

7 Mr. Warburgh, is the defendant ready
8 for sentence?

9 MR. WARBURGH: Yes, your Honor.

10 THE COURT: Is there any legal
11 reason why the defendant should not be
12 sentenced at this time?

13 MR. WARBURGH: None whatsoever.

14 THE COURT: Mr. Daniels, is there any
15 reason why you shouldn't be sentenced at
16 this time?

17 THE DEFENDANT: No.

18 THE COURT: I will hear Mr. Warburgh.

19 MR. WARBURGH: I would like to make
20 a brief statement on behalf of Mr. Daniels.
21 I did make a rather comprehensive statement
22 at the time we appeared here in December.

23 There has been some new facts that
24 have been brought to light concerning
25 Mr. Daniels' participation in some other

1
2 matters.

3 THE COURT: The Court has received
4 a letter from Mr. Nadjari's office concerning
5 his cooperation.

6 MR. WARBURGH: I didn't know who was
7 in the courtroom. If there is nobody here,
8 then I don't have to approach the bench. I
9 can state this in open court.

10 I believe, as your Honor mentioned, that
11 Mr. Nadjari himself personally sent the Court
12 a letter indicating that MR. Daniels had
13 been cooperating with his office in connection
14 with an investigation and still is cooperating.
15 In the audience portion of the courtroom is
16 Thomas McDermott, a Special Assistant Attorney
17 General from Mr. Nadjari's office, and I would
18 like him to step forward and make a statement
19 to the Court concerning Mr. Daniels' coopera-
20 tion.

21 THE COURT: He may come forward.

22 MR. WARBURGH: He, of course, would n
23 know more about it than I would.

24 THE COURT: He may come forward.

25 MR. WARBURGH: I would like to introduce

1
2 Mr. Thomas McDermott, a Special Assistant
3 Attorney General in the Office of the Special
4 Prosecutor of the State of New York.

5 THE COURT: Yes, sir, I will hear what
6 you have to say.

7 MR. MC DERMOTT: If I might elaborate
8 a little bit --

9 THE COURT: You are in which office?

10 MR. MC DERMOTT: Mr. Nadjari's office,
11 Special State Prosecutor. I am a Special
12 Assistant Attorney General.

13 Your Honor, I have been in charge of
14 the investigation that Mr. Daniels has been
15 cooperating with our office in. His
16 cooperations has been extensive, truthful,
17 candid. He has on his own uncovered certain
18 aspects of corruption in the criminal justice
19 system. He has related that to us. He has
20 participated in engaging in certain conversa-
21 tions with targets of this investigation. Your
22 Honor, his assistance has been one hundred
23 percent candid. His cooperation, as I say,
24 has been extensive and very important to the
25 investigation, which is very active at this

1
2 moment, your Honor. I anticipate that the
3 fruits of this investigation that Mr. Daniels
4 has cooperated will result in Grand Jury
5 action in the imminent future, and the
6 possibility of several indictments being
7 returned as a result of Mr. Daniels'
8 cooperation is very apparent.

9 THE COURT: Thank you, Mr. McDermott.

10 MR. WARBURGH: I would just like to
11 reemphasize Mr. Daniels cooperation in
12 connection with the Federal Government and of
13 the strong letter that the Court has received
14 from Mr. Frankel, a Special Assistant in the
15 Southern District, a very strong letter, and
16 I would like to remind the Court of that.

17 Also, I believe there was another
18 letter from Mr. Aronwald, I believe your
19 Honor had heard in December from the IRS
20 Agents who were associated with Mr. Daniels
21 and they personally came to this Court and
22 did make a statement on the record at the
23 time concerning his cooperation.

24 I submit that this additional
25 cooperation is another reason why this Court

1
2 should exercise leniency as far as Mr. Daniels
3 is concerned. I, in my own experience as a
4 prosecutor and also as defense counsel, have
5 never seen a person cooperate as significantly
6 as Mr. Daniels has; not only in addition to his
7 own particular case but also going out on his
8 own and ferreting out some of this crime that's
9 rampant in this city, and I think that your
10 Honor should carefully consider that, and I
11 think it's an indication of the fact that
12 he is remorseful that he committed the crime
13 for which he stands before this Court, and
14 I urge the Court to place him on probation.

15 I know the Court at one poine
16 mentioned that possibly he could be sent
17 to a Halfway House so that he could receive
18 medical attention from his doctors who have
19 treated him over the years, and if the Court
20 is going to see fit to put him in some type
21 of institutional setting, I would urge the
22 Court to put him in a Halfway House, but I
23 don't want that to take anything away from
24 my remarks and my urging that the Court
25 should place this man on probation. I think

1
2 that he's bent over backwards three hundred
3 percent in cooperating with the Government.
4 I don't think Mr. Ritchie quarrels with the
5 fact that he's cooperated. I think he will
6 recognize here this afternoon that Mr. Daniels
7 has bent over backwards in his cooperation.
8 I don't know what else the man can do. I
9 think that the Court should place him on
10 probation in light of his medical history,
11 in light of this very expensive cooperation,
12 and I urge the Court to place him on probation.

13 THE COURT: All right, anything further?

14 MR. WARBURGH: That's all I have.

15 THE COURT: Mr. Daniels, did you wish
16 to say anything?

17 THE DEFENDANT: No, sir. What my
18 attorney said is correct, except that I have
19 cooperated extensively, far beyond any
20 arrangement that I have made with the Government.
21 I am continuing to cooperate with the
22 Government. I have placed my life and my
23 family's life in jeopardy in this cooperation,
24 and I would ask your Honor to bear that in
25 mind, and if I could be placed on probation

1
2 or in a Halfway House so that I can be with
3 my family, my doctors, I would be very grateful
4 to the Court.

5 THE COURT: Anything further?

6 THE DEFENDANT: That's all I have, your
7 Honor.

8 THE COURT: All right. The defendant
9 having been convicted on a plea of guilty to
10 the offense of giving an unlawful gratuity
11 to an Internal Revenue Service Agent, and
12 having been committed to the custody of the
13 Attorney General pursuant to 18USCA Section 4208(b),
14 for imprisonment for a term of six months
15 and for a study as described in 18USCA
16 Section 4208(c), and the defendant having
17 personally returned to this Court pursuant
18 to the order of this Court and the Court
19 having now received and considered the report
20 of such study, it is ordered and adjudged that
21 the period of imprisonment heretofore imposed
22 be reduced to three months including already
23 served. It is recommended that the defendant
24 serve the time imposed at the Northeast
25 Region Psychiatric Referral Center at the

1
2 Federal Correctional Institution at Danbury,
3 Connecticut.

4 MR. WARBURGH: Would your Honor
5 consider staying the execution of sentence
6 for a week?

7 THE COURT: This thing has been dragging
8 out. Why do I have to stay it? We have
9 dragged it out time and time again.

10 MR. WARBURGH: I realize that. But,
11 I would like Mr. Daniels to put some of his
12 personal affairs in order. His wife has to
13 be taken care of.

14 THE COURT: It's stayed until
15 February 25th. On the 25th at 10:00 a.m.,
16 Mr. Daniels will report to the United States
17 Marshal on the first floor in this building.
18 Report directly to the marshal. He doesn't
19 come to the courtroom.

20 MR. WARBURGH: The defendant whispered
21 to me to make another request that he be sent
22 to a Halfway House.

23 THE COURT: No. The Court has
24 considered that and will not do it in this
25 particular situation.

1
2 MR. WARBURGH: Thank you very much.

3 MR. RITCHIE: Thank you, your Honor.

4 THE COURT: So much of the sentence
5 as refers to a fine in the sum of \$5,000 is
6 vacated, and that portion of the sentence is
7 vacated by the Court.

8 (At 3:30 p.m. the matter was closed.)
9
10
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24
25

-vs-

JEROME DANIELS, AKA GEORGE GOLDBERG,
"FAT GEORGE"- "JERRY"
PHILLIP KAPLOWITZ,

18 U.S.C. §§201(b) 1, 2, 3
201(f)
371, & 2
26 U.S.C. §7201

Defendants

74CR787

-----X
THE GRAND JURY CHARGES:

COUNT ONE

From on or about the 19th day of March, 1974 and continuing to the date of the filing of this indictment, within the Eastern District of New York and elsewhere, the defendant JEROME DANIELS, AKA GEORGE GOLDBERG, "FAT GEORGE," "JERRY" and the defendant PHILLIP KAPLOWITZ and others as yet unknown to the grand jury, wilfully and knowingly did combine, conspire, confederate and agree together and with each other to defraud the United States, and the Internal Revenue Service, of the United States Treasury Department, an agency of the United States, and to commit the following offenses against the United States:

1. to corruptly, directly and indirectly give, offer and promise things of value to an employee of the United States, acting for and on behalf thereof, in an official function, under and by authority of the Internal Revenue Service, United States Treasury Department, with intent to influence the said employee of the United States as to his decisions and actions on questions and matters then pending before the Internal Revenue Service, and to influence the said employee of the United States to collude in, allow and make opportunity for the commission of a fraud on the United States and to induce the said employee of the United States to do acts in violation of his lawful duty, all with respect to the tax liability of the defendant JEROME DANIELS, in violation of Title 18, United States Code, Section 201(b)(1)(2)(3), (f).

2. to wilfully attempt to evade and defeat a large part of the income taxes to be due and owing and which might become due and owing to the United States of America by JEROME DANIELS for the calendar year 1973, in violation of Title 26, United States Code, Section 7201.

the defendants committed the following

OVERT ACTS

(1) On or about June 18, 1974, in the Southern District of New York, the defendant JEROME DANIELS and the defendant PHILLIP KAPLOWITZ met.

(2) On or about July 25, 1974, in the Eastern District of New York, the defendant PHILLIP KAPLOWITZ went to the Old Homestead Steak House, 380 Northern Blvd., Great Neck, NY.

(3) On or about October 18, 1974, in the Southern District of New York, the defendant JEROME DANIELS and the defendant PHILLIP KAPLOWITZ met.

[Title 18, United States Code, Sections 371 & 2]

COUNT TWO

From on or about the 18th day of June, 1974 and continuing up to the date of the filing of this indictment, within the Eastern District of New York and elsewhere, the defendant JEROME DANIELS, AKA GEORGE GOLDBERG, "FAT GEORGE," "JERRY," and the defendant PHILLIP KAPLOWITZ directly, indirectly, and corruptly did offer, give and promise a thing of value, that is twenty thousand dollars (\$20,000) to Frank Frattolillio, and directly, indirectly and corruptly did give a thing of value, that is approximately \$14,000 to Frank Frattolillio and John Mc Tighe, both employees of the United States, acting for and on behalf thereof, in official functions, under and by authority of the Internal Revenue Service, United States Treasury Department, with intent to influence the said Frank Frattolillio and John Mc Tighe's decision and action on a question and matter then pending before the Internal Revenue Service and to influence the said Frank Frattolillio and John Mc Tighe to collude in, allow, and make opportunity for the commission of a fraud on the United States, and to induce the said Frank Frattolillio and John Mc Tighe to do an act in violation of his lawful duty, with respect to the tax liability of the defendant JEROME DANIELS.

[Title 18, United States Code, Sections 201(b)(1)(2) & (3) & 2]

COUNT THREE

On or about the 18th day of June, 1974, continuing up to the date of the filing of this indictment, within the Eastern District of New York and elsewhere, Jerome Daniels, a/k/a George Goldberg, Fat George, Jerry and Phillip Kaplowitz unlawfully and knowingly did, directly and indirectly, give, offer and promise money and other things of value to Frank Frattolillo and John Mc Tigue, officers and employees of the United States Department of the Treasury, that is, Special Agents of the Internal Revenue Service, for and because of official acts performed by the said Frank Frattolillo and John Mc Tigue, otherwise than as provided by law for the proper discharge of their official duties as such Special Agents; to wit: intervening and suppressing the criminal investigation by the Internal Revenue Service of the income tax of Jerome Daniels due and owing to the United States.

[Title 18, United States Code, Sections 201 (f), 2]

COUNT FOUR

That on or about July 3, 1974, in the Eastern District of New York, Jerome Daniels, a resident of Bronx County New York, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him to the United States of America for the calendar year 1973, by preparing and causing to be prepared in the Eastern District of New York, a false and fraudulent income tax return wherein he stated that his taxable income for the said calendar year was the sum of \$29,135.15 and that the amount of tax due and owing thereon was the sum of \$10,621.22, whereas, as he then and there well knew his taxable income for the said calendar year was the sum of \$42,634.15 upon which said taxable income he owed to the United States of America an income tax of \$17,643.10.

[Title 18, United States Code, Section 7201]

A TRUE BILL

U. S. Form No. 100

CRIMINAL DOCKET

74CR 78

RECEIVED

TITLE OF CASE	ATTORNEYS
THE UNITED STATES	For U. S.: A. DANIELS
VS.	For Deft. KAPLOWITZ:
* JEROME DANIELS also known as	James Leonard
George Goldberg, aka "Fat George"	150 Broadway, NYC.
aka "Jerry" and PHILLIP KAPLOWITZ	233-0260
	For Defendant: DANIELS
	James Leonard
	150 Broadway, NYC.
	233-0260

Billings of Court employee (IRS)

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Sal. (Daniels)	5000 00	2-10-75	Holmes & Narver, Daniel	5	
Clk.		2-10-75	Paterson		6
Sten.					
Interpreter					
Commissioner's Court					
Witnesses					

DATE	PROCEEDINGS
12-16-74	Before DANIELS, J - Indictment filed
1-10-75	Before JUDD, J - Case called - Deft and counsel present - Deft enters a plea of not guilty - Bail conditions contd - Case adjd for trial
	For trial (JEROME DANIELS)
1-17-75	Notice of appearance filed (DANIELS)
1-17-75	Notice of Appearance filed (KAPLOWITZ)
1-17-75	Before JUDD, J - case called - deft KAPLOWITZ & counsel James Leonard present - deft arraigned and enters plea of not guilty - Bail continued - case adjd to March 17, 1975 for trial.
1-17-75	Before BRANWELL, J - case called - deft DANIELS & counsel Paul Harburgh present - deft KAPLOWITZ & counsel not present - case adjd to May 12, 1975 for Trial.

	PROCEEDINGS	PLAINTIFF	DEFENDANT
3/27/75	Waiver of right to speedy trial filed (DANIELS)		
5-5-75	Notice of Defense of Mental Disease or Defect filed (DANIELS)		
5-12-75	Before BRAMWELL, J - case called - deft DANIELS & counsel Herbert Karsner not present - deft Kaplowitz & counsel James Benard present - case adjd to May 19, 1975 for trial.		
5/28/75	Before BRAMWELL, J.- Case called Deft Kaplowitz and counsel present- Daniels not present- counsel present- case adjd to 9/27/75 for trial.		
9-2-75	Before BRAMWELL, J - case called - defts & attys present - James Benard for deft KAPLOWITZ and Paul Warburgh for deft DANIELS - defts arraigned and having been advised of their rights and each on his own behalf withdraws plea of not guilty and enter pleas of guilty to count (2) sentenced without date - bail contd as to each deft.		
10/2/75	Better dated 5/14/75 filed (ordered sealed by Judge Bramwell)		
11/7/75	Before BRAMWELL, J.- Case called- Deft DANIELS and counsel present- sentenced adjd to 11/28/75 at 10:00 A.M. on consent		
11/28/75	Before BRAMWELL, J.- Case called- deft and counsel present- deft KAPLOWITZ sentenced to imprisonment for a period of 1 year on count 3-deft is serve 2 months pursuant to T-18, U.S.C. Sec. 3651- execution of remainder of sentence is suspended and the deft is placed on probation for a period of 2 years-stay of execution of sentence to 12/8/75 is granted- On motion of AUSA Sloppin counts 1,2 are dismissed- sentence adjd to 12/9/75		
11/28/75	Judgment and Commitment and Order of Probation filed- certified copies to probation and Marshal-		
12-9-75	Before BRAMWELL, J - case called - deft DANIELS & counsel Paul Warburgh present. - deft is committed for imprisonment for a period of 6 months and to pay a fine of \$5,000 on count (3). There shall be a stay of this sentence to Jan. 9, 1976 pending a study and report to be furnished to this Court by the Bureau of Prisons. The deft is hereby committed for imprisonment for study and report as described in Sections 4208(B) and (C) of T-18, U.S.C. on Tuesday, Dec. 9, Wednesday, Dec. 10 and Thursday, Dec. 11, 1975. The deft is to be released from custody thereafter, the results of such study are to be furnished to this Court within 30 days unless the court grants further time. The deft is ordered to personally return with his attorney to this Court and the sentence of imprisonment herein imposed shall be subject to modification in accordance with 18, U.S.C. Sec. 4208(E) . This sentence is imposed as there is a serious question as to whether or not this deft can survive confinement due to his medical condition. On motion of AUSA Ritchie counts 1, 2 and 4 are dismissed (SCARLE DANIELS)		

CRIMINAL DOCKET

DATE	PROCEEDINGS
12/11/75	Certified copy of Judgment and Commitment ret'd and filed- deft delivered to MCC(DANIELS)
1/9/76	Before BRAMWELL, J.- Case called- deft and counsel present-sentence adj to 1/23/76 at 10:00 A.M.(JEROME DANIELS)
1/23/76	Before BRAMWELL, J.- Case called- Deft Jerome Daniels and counsel Paul Warburgh present-Case adjd to 2/11/76 at 2:00 P.M. For hearing
2--11-76	Before BRAMWELL, J - case called - Deft Daniels & counsel Paul Warburgh present - hearing adjd to Feb. 18, 1976 at 2:00 PM.
2-18-76	Before BRAMWELL, J - case called - deft Daniels & counsel Peter FABRICANT present - hearing on medical condition of deft begun - Court accepts the conclusion of the Warden and Doctors of Metropolitan Corr. Center. Hearing concluded . It is ordered and adjudged that the period of imprisonment heretofore imposed be reduced to 3 months including time already served. It is recommended that deft serve the term imposed at the Northeast Regional Psychiatric Referral Center at Danbury, Conn. and that portion of prior sentence which refers to the \$5,000 fine is vacated. Stay execution of sentence to Feb. 25, 1976 at 10:00 am is granted.
2-18-76	Amended Judgment & Commitment filed - certified copies to Marshal (DANIELS)
2/20/76	Notice of appeal filed(DANIELS)
2/20/76	Docket entries and duplicate of notice of appeal mailed to court of ap

JOSEPH T. MARTORANO, M.D., P.C.
150 EAST 56TH ST.
NEW YORK, N. Y. 10022
TELEPHONE PL 1-3135

September 17, 1975

The Hon. Henry Bramwell
U.S. District Judge
225 Cadman Blaza East
Brooklyn, New York

Re: Jerome Daniels
born 11/29/30

Dear Judge Bramwell:

I have undertaken the privilege of writing you in regard to the above-named patient. Mr. Daniels is a 44 year-old white male who first consulted me two years ago. At that time, he was suffering from a severe psychotic depression.

Further clinical investigation has revealed that the patient is in extremely poor physical condition. He was referred to Dr. Nicholas Pace for a medical workup and discovered to have a failing cardiovascular system which was further strained by the presence of severe endogenous obesity, hypertension and diabetes. His cardiac condition has so decompensated that while it has limited the available choice of psychiatric medications, he still has had to maintained on 200 mg. of imipramine a day (a large dose of antidepressant medication) as well as antipsychotic and anti-anxiety medication. In addition to other medication he is receiving for his physical condition.

To further compound the medical difficulties in this particular case, it must be stated that the patient has had a chronic debilitating case of paranoia since the age of fifteen which has led to his adoption of multiple identities and has greatly interfered with his medical treatment as exemplified by the strong recommendation on several occasions that Mr. Daniels enter the hospital for prolonged, intensive treatment; however, because of his paranoid ideation, he has been unable to do so. Further, it was felt that his cardiac condition was so weak that if he were forced to enter his heart would decompensate and he might die of the stress.

JOSEPH T. MARTORANO, M.D., P.C.
150 EAST 86TH ST.
NEW YORK, N. Y. 10022
TELEPHONE PL 1-3135

-2-

It is even more unfortunate to denote that this disease process is apparently the vector of a biological process and could have been treated by antipsychotic drugs if the patient hadn't been so paranoid.

Therefore, at this point, we are faced with the unwieldy dilemma of a critically ill 44 year old male whose life prognosis, because of his cardiac status is severely limited to, at best a few years and whose mental condition is such that it will eventually deteriorate, because of his lifelong paranoia, if placed under stress.

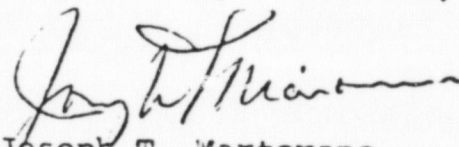
In spite of all this, Mr. Daniels has strived to maintain a normal family life.

Therefore, I would recommend that these factors be considered in regard to any sentence imposed on Mr. Daniels as it is quite probable medically that even minimal institutionalization would cause severe mental and cardiac decompensation to the extent that it would unfairly punish the defendant by causing a precipitous, premature death.

If the event this letter needs further verification, the patient's electrocardiograph and other medical records can be obtained from Dr. Nicholas Pace (250 East 73rd Street, New York) unless the court would prefer to use its own medical experts.

Thank you for your consideration in what would seem to be a very difficult complicated consideration in what appears to be an already complex case.

Respectfully submitted,


Joseph T. Martorano
Registered Psychiatrist

JOSEPH T. MARTORANO, M.D., P.C.
150 EAST 56TH ST.
NEW YORK, N. Y. 10022
TELEPHONE PL 1-3115

December 2, 1975

Honorable Judge Henry Bramwell
U.S. District Judge
225 Cadman Plaza E.
Brooklyn, New York

Dear Judge Bramwell:

This is a follow-up report to my letter of September 17, 1975 concerning Jerome Daniels.

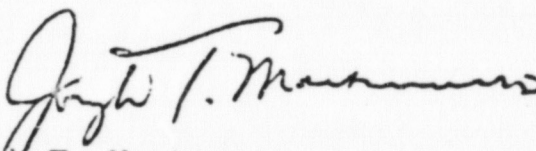
Mr. Daniels remains extremely ill and is in constant consultation with me. His medications have been increased.

I have been in consultation with Dr. Nicholas Pace of 250 E. 73 Street, New York City, who advises me that Mr. Daniels' cardiac condition, diabetes, and hypertension have also deteriorated since my last correspondence with you.

Due to the severity of his illness I feel that a jail sentence might well result in an unavoidable premature death.

If there is any further information you may wish, please feel free to call me.

Respectfully submitted,


Joseph T. Martorano
Registered Psychiatrist

E. LESLIE CHUSID, M. D.
1000 PARK AVENUE
NEW YORK, N. Y. 10028
—
BUTTERFIELD 8-4600

Sept. 20, 1975

Henry Bramwell
U.S. District Judge
225 Cadman Plaza
East Brooklyn, N.Y. 11201

Dear Mr. Bramwell,

Please be advised that Jerome Daniels is under my professional care for Hypertension, A.S.H.D., Diabetes Mellitus, Hypercholesterolemia and permanent dislocation of left ankle caused by torn ligaments and cartilage. He is totally disabled and will not be able to return to work at any future date.

His medications are: Isuprel, Inderal, Aldomet, Ismolin, Diabinese, Enduron and Valium. He is also presently undergoing psychiatric treatment. It is in my professional opinion that imprisonment would probably cause complete physical and mental breakdown and probably premature death.

Sincerely yours,

E L Chusid

E. Leslie Chusid, M.D.

ALBERT J. LOBEL, M.D.

~~XXXXXXXXXXXX~~ 133 East 73rd Street

NEW YORK 28, N. Y.

~~XXXXXXXXXXXX~~

Yukon 8-4800

Judge Henry Bramwell
U.S. District Judge
225 Cadman Plaza East
Brooklyn, N.Y. 11207

September 20, 1975

re: Mr. Jerome Daniels
290 West 232nd Street
Bronx, N.Y.

Dear Judge Bramwell:

Mr. Daniels has been under my care for treatment of his mental illness since August, 1973, referred by his medical internist Dr. Leslie Chusid.

He visits regularly and I have prescribed several psychotropic medications which he requires several times daily. He takes Tofranil for depression, Mellaril and Stelazine for tranquilization and psychotic symptoms and Valium for anxiety.

His symptoms are withdrawal, inability to function, depression, fears of meeting people and ideas of persecution. At times he is suicidal and I have several times suggested hospitalization for electroshock treatment.

His mental condition is unstable and additional stress, such as confinement to prison, would be very detrimental.

Medical Diagnoses: Schizophrenia, with depression.

Hypertension
Angina Pectoris
Diabetes Mellitus.

Yours truly,

Albert J. Lobel
Qualified Psychiatrist,
N.Y. State

MARVIN DANIELS, Ph. D.

8 BEAVER DRIVE
LOCUST VALLEY, N. Y. 11860

671-2624

September 13, 1975

The Honorable Henry Bramwell
U.S. District Judge
225 Cadman Place East
Brooklyn, New York 11201

In re: Jerome Daniels
290 West 232nd Street
Riverdale, New York
10463

Dear Judge Bramwell:

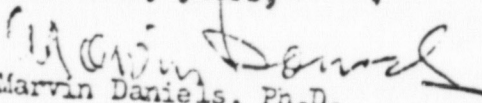
I am a practicing psychologist, registered in New York State. Jerry Daniels is my younger brother. He has asked me to provide you with information regarding his background.

Jerry comes from a family of five brothers in which three of the five, including Jerry, have had serious psychiatric problems. I and another brother seem to have been spared. But the oldest received a psychiatric discharge from the Air Force in 1943, and for years was on a pension from the Veterans Administration for mental disability. The youngest brother was discharged from the Navy on psychiatric grounds. Later, he had to be confined to Creedmoor Hospital with a diagnosis of schizophrenia, and he has been a patient there for seventeen years.

My brother Jerry was also never stable, mentally and emotionally speaking. From childhood on, he manifested distinct paranoid trends and a vulnerability to recurrent periods of anxious depression during which he was unable to carry on the normal affairs of day-to-day living. For several years now he has been under weekly psychiatric care. His physical condition is also quite poor. He suffers from angina attacks, diabetes and high blood pressure. When he is under emotional stress, the physical problems are drastically affected.

Jerry's brothers became psychotic just from being in the Armed Forces. I would certainly predict a similar psychotic breakdown — with accompanying physical deterioration — were he to be confined to prison.

Very truly yours,


Marvin Daniels, Ph.D.
Associate Clinical Professor of Psychology
Institute of Advanced Psychological Studies
Adelphi University

Organized Crime and Racketeering Section
Criminal Division
Federal Building
Room 327-A
35 Tillary Street
Brooklyn, New York
October 24, 1975

Honorable Henry Bramwell
United States District Judge
United States District Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Dear Judge Bramwell:

I would like to take this opportunity to advise the Court of the cooperation of Jerome Daniels in several matters of investigative interest to the United States.

Mr. Daniels has provided significant information to agents of the United States on several income tax and non-tax related investigations. His information has led to the strengthening of the Government's case in two pending indictments and to the institution of numerous other investigations.

Throughout the course of his cooperation he has always attempted to discover information on the subjects of inquiry, and, in so doing, he has exposed himself to some personal danger. The agents who have dealt with Mr. Daniels, have informed me that they have found him to be entirely truthful.

In my opinion, he has very fully complied with his agreement. I believe that due to his very significant cooperation, he has shown a desire to mend his ways and to make up for his past crime.

I am also aware of the fact that Mr. Paul Warburgh, Esq. is presenting your Honor with statements concerning the medical condition of the defendant. The United States is aware that Mr. Daniels has had these medical problems for a long time, and that the consulting with medical doctors substantially ante-dated the onset of Mr. Daniels' legal difficulties.

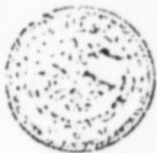
Yours very truly,

David J. Ritchie
Special Attorney

DJR:lg

cc: Paul Warburgh, Esq.

BEST COPY AVAILABLE



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

Organized Crime & Racketeering Section
Joint Strike Force - 3rd Floor
One St. Andrews Plaza
New York, New York 10007

October 22, 1975

Honorable Henry R. Bramwell
United States District Judge
for the Eastern District of New York
35 Tillary Street
Brooklyn, New York

Re: United States v. Jerome Daniels
74 Cr. 787

Dear Judge Bramwell:

It has come to my attention that Jerome Daniels, a defendant before the Court is soon to be sentenced by your honor. Although customarily the Government has taken no position at the time of sentence, I believe it is in the interests of justice that I bring certain facts to the Court's attention.

For the past six months Mr. Daniels has been working closely with myself and agents of the Internal Revenue Service, and has provided extensive information which has proven both reliable and exceedingly valuable. Mr. Daniels will also testify for the Government in a forthcoming prosecution. This testimony will increase considerably the likelihood of the conviction of that defendant.

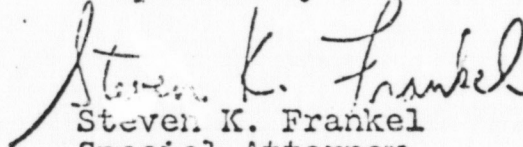
Despite Mr. Daniel's poor health he has cooperated fully in supplying information to the Government without hesitation and has, without compensation, expended considerable time and energy in gathering the information requested.

In view of the above, it is our belief that the incarceration of Mr. Daniels would serve no constructive purpose, and would instead remove him from the position where he can continue to gather intelligence information for the Government.

- 2 -

If I can be of any further assistance to the Court, please contact me immediately.

Respectfully submitted,

A handwritten signature in cursive script, reading "Steven K. Frankel". The signature is written in dark ink and is positioned above the typed name.

Steven K. Frankel
Special Attorney
U.S. Department of Justice

SKF:dh

METROPOLITAN CORRECTIONAL CENTER

150 PARK ROW
NEW YORK, N. Y. 10007

December 15, 1975

Honorable Henry Bramwell
U.S. District Court Judge
225 Cadman Plaza East
Brooklyn, New York, 11201

RE: DANIELS, Jerome

Dear Judge Bramwell:

This is in response to your letter of November 6, 1975, in which you requested a medical and psychiatric evaluation of Mr. Daniels.

Our Consultant Physician confirms that Mr. Daniels suffers from arteriosclerotic heart disease, hypertension, diabetes, and obesity. He is not in congestive failure, his diabetes is controlled with diabinase, an oral hypoglycemic agent, and he presently appears to be in no distress. Mr. Daniels hypertensive disease can be controlled by a salt poor diet and anti-hypertensive medication. The electrocardiogram reveals no significant abnormalities. The recurrent chest pains can be controlled with nitroglycerin. We do not have the results of the laboratory tests, but we do not expect any alarming findings which would change the prognosis. His physical condition would be compatible with sedentary occupation and in a non-agitative surroundings.

Mr. Daniels' psychiatric prognosis and capacity appear to be poor. He gives a history of having had a nervous breakdown in 1951 with manifestations of acute psychosis. Over the years he has experienced intermittent auditory hallucinations and chronic paranoid ideation with aggravation about four years ago. At that time he made a suicide attempt and he has been under psychiatric care since then. Mr. Daniels has been treated with psychotropic medication for severe depression, withdrawal and the persistent paranoid thinking. Hospitalization and shock treatments were recommended last year but he refused.

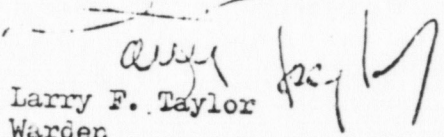
At present Mr. Daniels is cooperative, depressed, angry and his ideation is very definitely paranoid although not bizarre. There is no evidence of organic brain damage. He recognizes that he has emotional difficulties but has little awareness of how these problems affect his behavior.

Mr. Daniels probably will continue to require psychotropic medication as well as medications for his physical condition. He does require close supervision as he is very definitely agitated and suicidal. The Federal Correctional Institution at Danbury, Connecticut is the Northeast Region Psychiatric Referral Center and would be capable of handling this type of patient.

We hope to have provided you with the necessary information. We are happy to help with matters of this nature and we hope you will feel free to call on us at anytime.

Best regards.

Sincerely yours,


Larry F. Taylor
Warden

JOSEPH T. MARTORANO, M. D.
150 EAST 56TH STREET
NEW YORK, NEW YORK 10022
PLAZA 1-3135

February 10, 1976

Honorable Henry Bramwell
United States District Court Judge
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Jerome Daniels

Dear Judge Bramwell:

The following is submitted per your request.

As noted in previous reports, Mr. Daniels is suffering from a severe psychotic depression for which he receives large amounts of antipsychotic and antidepressant medication.

Clinical investigation had revealed that the patient is in extremely poor physical condition. He was referred to Dr. Nicholas Pace for a medical workup and discovered to have a failing cardiovascular system which was further strained by the presence of severe endogenous obesity, hypertension and diabetes. His cardiac condition has limited the available choice of psychiatric medications. He still has had to maintain 200 mg. of imipramine a day (a large dose of antidepressant medication) as well as antipsychotic and anti-anxiety medication.

Mr. Daniels has been ill for an extremely long period of time and has been actively suicidal for the past four years.

Mr. Daniels' psychiatric prognosis and capacity appear to be very poor. He had a nervous breakdown in 1951 with manifestations of acute psychosis. Over the years he has experienced intermittent auditory hallucinations and chronic paranoid ideation with an exacerbation about four years ago at which time he made a suicide attempt.

To further compound the medical difficulties in this particular case, it must be stated that the patient has had a chronic debilitating case of paranoia since the age of fifteen which has led to his adoption of multiple identities and has greatly interfered with his medical treatment as exemplified by the strong recommendation on several occasions that Mr. Daniels enter the hospital for prolonged, intensive treatment; however, because of his paranoid ideation, he has been unable to do so.

Honorable Henry Bramwell
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At the present time, the major difficulty is that Mr. Daniels has an active psychotic state combined with a severe depression.

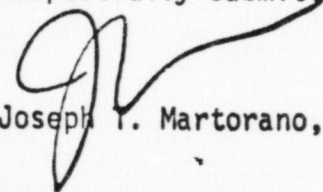
The depressive state will most likely deteriorate under any type of confinement and should precipitate a stronger suicidal drive which the patient can not even presently control.

Further, this entire issue is worsened by the presence of a severe psychotic state which will undoubtedly decompensate under the type of stress represented by incarceration. Unfortunately, psychosis of this type is not always reversible and placing this patient in an institution may have the terribly undesirable effect of bearing him a totally decompensated chronic psychotic for the remainder of his life.

I have read the prison reports and can understand their summarization. However, I would plead as a psychiatrist, that even the most minimal institutionalization should be avoided if at all possible.

Thank you for your kind consideration.

Respectfully submitted,



Joseph T. Martorano, M.D.

JTM:skj

NICHOLAS A. PACE, M.D.
250 EAST 73rd STREET
NEW YORK, NEW YORK 10021
Telephone 535-1109

February 9, 1976

Judge Henry Bramwell
U.S. District Judge
225 Cadman Place
East Brooklyn, New York 11201

Re: Gerald R. Daniels

Dear Judge Bramwell,

I have read the Wardens report on Mr. Daniels medical status from the Metropolitan Correctional institute. It is my feeling as previously noted that Mr. Daniels has a very serious psychiatric history of depression with suicidal tendencies, a Arteriosclerotic Heart disease with history of two Myocardial Infarctions and presently severe angina pectoris, essential hypertension and diabetes mellitus.

As indicated in my previous report even though Mr. Daniels is under a multitude of medications for the above conditions it has been difficult to control Mr. Daniels blood pressure, cardiac and diabetic problems especially in light of the impending jail sentence. I have noticed that with the anxiety of the impending hearing Mr. Daniels is having more angina attacks and his blood pressure has remained high in spite of intensive medical therapy.

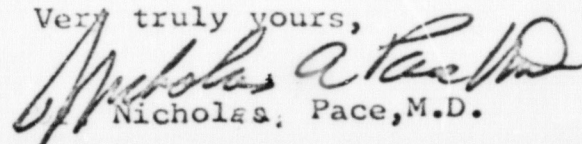
It is my sincere impression that because of Mr. Daniels severe mental and physical state, incarceration of any kind may lead to Mr. Daniels developing a cerebral hemorrhage secondary to his hypertension or another coronary occlusion.

The patients medical status is so, that separation from his family and physician will cause Mr. Daniels premature complications of his many medical problems.

I have on file several letters from other physicians and psychiatrists who have treated Mr. Daniels and who concur with my medical opinion.

Based on his reaction to his impending hearing I must stress that his reaction to even minimal incarceration may have disastrous results on his health.

Very truly yours,


Nicholas A. Pace, M.D.

NAP:st

HYLAN A. BICKERMAN, M. D.
E. LESLIE CHUSID, M. D.
1000 PARK AVENUE
NEW YORK, N. Y. 10028

Feb. 17, 1976

Judge Henry Bramwell
U. S. District Court Judge
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Re: Jerome Daniels

Dear Sir,

I have read the recent letter submitted to you by Warden Larry F. Taylor. It is very easy to look at a medical situation on paper and make a decision as to a course of action. However, having known Mr. Daniels since 12/21/71, his total mental and physical condition is extremely borderline. Taken out of the environmental surroundings of his family, this pathetic individual has demonstrated to me in the past rapid deterioration of his depressive reaction and his diabetic - hypertensive state. The amount of medication he is required to take makes him vulnerable to extraneous factors, especially unfamiliar stress. His lifespan is going to be short as is; the placement in an institution outside his home, in my estimation, would have the greatest possibility of inducing further premature death.

If you need further details, please do not hesitate to contact me at my office (BUS-4600) at anytime. I am sorry I did not have the opportunity to meet you on Wednesday, Feb. 11, as originally planned.

Sincerely yours,

E. L. Chusid

E. Leslie Chusid, MD, FACP, FCCP
Associate Clinical Professor in Medicine
Director, Respiratory Therapy, Mt. Sinai
School of Medicine, N.Y.C., N.Y.



STATE OF NEW YORK
OFFICE OF THE SPECIAL PROSECUTOR
2 WORLD TRADE CENTER, NEW YORK, N. Y. 10047

MAURICE H. NADJARI
SPECIAL PROSECUTOR

January 21, 1976

Hon. Henry R. Bramwell
United States District Judge
for the Eastern District of New York
35 Tillary Street
Brooklyn, New York

Re: United States v. Jerome Daniels
74 Cr. 787

Dear Judge Bramwell:

I wish to bring to the Court's attention the extensive cooperation of Jerome Daniels with my office in a major investigation of corruption in the criminal justice system in New York City.

Since December, 1975, Mr. Daniels has furnished my staff with significant information which has proven both reliable and exceedingly valuable.

At the present time, Mr. Daniels is actively participating with my staff in a major investigation. Mr. Daniels assistance in this matter has required considerable time and energy and, I might add, has involved expenditures of his personal funds.

As the Court can well appreciate, successful investigations depend to a great extent upon the willingness of witnesses to provide information and assistance to the authorities. Therefor, it is only appropriate, in cases where a witness has materially assisted an official investigation that the fact of his cooperation should be disclosed to the judiciary.

Very truly yours,

Maurice H. Nadjari
Maurice H. Nadjari
Deputy Attorney General
Special State Prosecutor

MHN:ko

AFFIDAVIT OF SERVICE

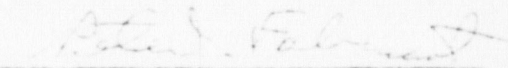
STATE OF NEW YORK)
COUNTY OF KINGS) SS.:

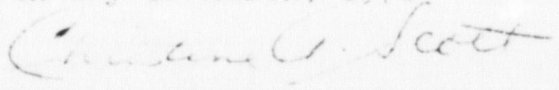
PETER J. FABRICANT, being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at 186 Joralemon Street, Brooklyn, New York.

On March 9, 1976, deponent served the within Brief and Appendix, United States of America v. Jerome Daniels, Index Number 76-1078, upon David J. Ritchie, attorney for the United States Government, at Organized Crime and Racketeering Section, Federal Building, Room 327-A, 35 Tillary Street, Brooklyn, New York 11201, the address designated by said attorney for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in a post office within the State of New York.

Deponent further filed an original and ^{three} ~~seven~~ copies of the aforementioned Brief and Appendix with the United States Court of Appeals for the Second Circuit, United States Courthouse, Foley Square, New York, New York 10007, by depositing the originals and true copies of same enclosed in a post-paid properly addressed wrapper in a post office within the State of New York.

Sworn to before me this
9th day of March, 1976


PETER J. FABRICANT


CHRISTINE A. SCOTT
Notary Public, State of New York
No. 24-1632580
Qualified in Kings County